



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21882 of 2021
(Through Video Conference)

S.Elangovan

..Petitioner

Versus

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai 600 028
2. The Sub Registrar,
Sub-Registrar Office,
Cheyyur, Cheyyur Taluk,
Chengalpattu District.
3. The Tahsildar,
Taluk Office,
Cheyyur, Chengalpattu District.
4. Elumalai
5. Pattammal
6. Axis Bank Ltd.,
Rural Lending Area Office,
at No.60A, 1st Floor, Gandhi Road,
Kancheepuram 631 501

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 & 2 to cancel the settlement deed dated 10.01.2019, registered as document no.60/2019, on the file of S.R.O., Cheyyur and consequently to remove the names of the 4th and 5th respondents in the encumbrance entry register and also remove the Mortgage Deed dated 29.01.2019 registered as document No.200/2019 on the file of SRO, Cheyyur, executed by the 5th respondent in favour of the 6th respondent.

For Petitioner : Mr. T.Sellapandian

For RR 1 to 3 : Mr.V.Veluchamy,
Government Advocate



O R D E R

This petition has been filed for a Writ of Mandamus seeking for a direction to the respondents 1 & 2 to cancel the settlement deed dated 10.01.2019, registered as document No.60/2019, on the file of S.R.O., Cheyyur and for a consequential direction to remove the names of the 4th and 5th respondents in the encumbrance entry register and also to remove the Mortgage Deed dated 29.01.2019 registered as document No.200/2019 on the file of S.R.O., Cheyyur, executed by the 5th respondent in favour of the 6th respondent.

2. The case of the petitioner is that the property situated at Survey No.28/1B to extent of 4 hectares (10 acres) in Chitharkadu Revenue Village, (Nangalathur Hamlet Village), Cheyyur Taluk, Kancheepuram District, (now Chengalpattu District) originally belonged to one Subbaraya Mudaliar, son of Muthusamy Mudaliar, from whom one Thanigai Mani Naidu, son of Jayaram Naidu purchased the said property by way of sale deed dated 22.01.1960, registered as document No.219/1960, before the Sub-Registrar, Cheyyur. In the year 1967, one Balaram Naidu purchased the property from the said Thanigai Mani Naidu and registered the same as document No.1590/1967 on 10.11.1967.

3. The learned counsel for the petitioner further submitted that his father K.A.Shanmugavelu purchased the property vide sale deed dated 16.05.1973, registered as document No.668/1973 in the office of the Sub Registrar, Cheyyur from the said Balaram Naidu. The petitioner submits that his father was in absolute possession and enjoyment of the property and he died on 24.05.2014 leaving behind the petitioner and his brothers and two sisters as legal heirs. The petitioner and his family members were in absolute possession and enjoyment of the property as the father was doing cultivation in the property. After his demise, the petitioner and his family members succeeded to the property. After the death of the father, the fourth respondent, a farmer, doing agricultural activities, who was employed as a servant by his father to take care of the property colluded with the Revenue Officials for issuance of patta without any basis and who also has no connection or title over the property. The third respondent has issued a patta to the said person when there is a patta issued in favour of the petitioner's father in patta No.31 and the said patta was transferred in the name of the fourth respondent, who in turn has fraudulently executed a settlement deed dated 10.01.2019 registered as Document No.60/2019 before the Sub Registrar, Cheyyur in favour of the fifth respondent.

4. Thereafter, the fifth respondent has mortgaged the same to the sixth respondent on 30.01.2019 in document No.200/1019,



in the office of the Sub-Registrar, Cheyyur for a loan amount of Rs.12,00,000/- (Rupees Twelve Lakhs only). Based on these two documents, the fifth respondent had filed a frivolous suit against the petitioner and his brother for a relief of bare injunction in O.S.No.109 of 2019 and the same is pending adjudication. The petitioner further submitted that the registration of the fraudulent settlement deed in favour of the fifth respondent has to be set aside and the petitioner, being the Kartha of the family, has made a representation to the District Collector, Kancheepuram on 17.05.2019 and the same was forwarded to the third respondent for appropriate action.

5. After conducting a thorough enquiry, the third respondent canceled the patta No.782 issued in favour of the fourth respondent and restored the patta No.31 by an order dated 28.06.2019 in favour of the petitioner. The petitioner also made a representation on 30.12.2019 to the second respondent to cancel the fraudulent settlement deed. Since no action has been taken by the respondents 1 & 2 to cancel the fraudulent document executed by the 4th and 5th respondents, the petitioner made another representation on 25.09.2021 to the respondents 1 & 2 to take action to cancel the fraudulent settlement deed and mortgage deed and also to remove the entries made in the encumbrance register. Till date, the respondents 1 and 2 have not taken any action inspite of the representation made along with the order passed by this Court in W.P.(MD) No.10177 of 2021 on 17.06.2021 wherein certain guidelines have been given to the Authorities for acting on similar applications. The petitioner submits that this Court has also held that the lawful owner of the property shall not be unnecessarily driven to Civil Court for canceling the fraudulent documents in W.P.(MD) No.10177 of 2021 and the Authorities are bound to cancel the same based on the orders passed by the Revenue Authorities.

6. Further, it is said that the Authorities have not verified the entries in the encumbrance certificate as to whether the parent documents have been accompanied along with the document to be registered and without following the said procedure, registered the fraudulent settlement deed and the same has mortgaged to another person for Rs.12,00,000/- Hence, the petitioner submits that the Authorities have come to a conclusion that the transfer of patta in favour of the fourth respondent is contrary to Section 10 of the Tami Nadu Patta Pass Book Act, 1983 and the patta and the original possession has been canceled by deleting the name of the fourth respondent and restoring the petitioner's father name by order dated 28.06.2019 but the same has not been considered by the second respondent, wherein the petitioner has also given a complaint before the Land Grabbing Cell on 15.05.2021 to the Inspector of Police. But he has not restored the same stating that the patta has been



restored and they are asking the petitioner to approach the Revenue Authorities and the Sub Registrar for canceling the fraudulent settlement deed registered in favour of the third parties. Left with no other alternative remedy, the petitioner has approached this Court with the aforesaid prayer.

7. On going through the typed set of papers, it is seen that appropriate sale deeds have been filed to show that the petitioner has inherited the property from his father. The electricity connection stands in the name of his father from 16.03.1977 and it has also been produced and the chitta adangal and patta which have been given to the petitioner's father have been produced and on going through the said documents and the documents alleged to have been executed fraudulently are also filed before this Court. The petitioner's case is that after holding an enquiry by the Tahsildar, on 28.06.2019 the respondents have passed an order in Na.Ka.No.2146/2019 R2 wherein he has canceled the said patta issued to the fraudulent person namely one Ezhlumalai and restored the patta in favour of the petitioner.

8. Hence, in view of the above said facts and also on perusal of the other documents, this Court is of the considered view that the petitioner has got every right to approach the Authorities to seek for the cancellation of the said documents. The alleged O.S.No.109 of 2019 wherein the prayer is only seeking for bare injunction and there is no claim of declaration of title to the said property by the said Ezhumalai and Pattamal, who is the subsequent purchaser and the said person claims that the property has been purchased by her by valid title deed from the original owner but not filed a suit for declaration and it is only for permanent injunction. That being the case, the first respondent is directed to consider the same and pass appropriate orders within a period of twelve (12) weeks from the date of receipt of a copy of this order on merits and in accordance with law.

9. Accordingly, this Writ Petition is Disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai 600 028

2. The Sub Registrar,
Sub-Registrar Office,
Cheyyur, Cheyyur Taluk,
Chengalpattu District.

3. The Tahsildar,
Taluk Office,
Cheyyur, Chengalpattu District.

+2cc to Mr.T.Sellapandian, Advocate, S.R.No.52939

W.P.No.21882 of 2021

JPL(CO)
RGA(22/11/2021) (07/12/2021)