

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.15689 OF 2017

G.Selvi

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Petitioner

-Vs-

- 1 The Inspector General of
Registration No.100 Santhome High Road
Mylapore Chennai 600 028
 - 2 The District Registrar
Registration Department 5th Street Gandhi
Nagar Near Tiruvannamalai Railway Station
Tiruvannamalai
 - 3 The Sub Registrar, Thandarampattu Sub Registrar Office
Thandarampattu Taluk, Tiruvannamalai District
 4. L.Ganesan
 5. Valli
- Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 & 2 to consider the petitioners representation dated 31.3.2017 i.e.to cancel the Sale Deed dated 24.10.2016 registered on 21.12.2016 vide Document No.3452 of 2016 on the file of the 3rd respondent in the name of the 5th respondent.

For Petitioner : Mr.S.Ambigapathi

For Respondent : Mr.P.Purushothaman

Government Advocate - for RR 1 to 3

Mrs.V.Suguna - for RR 4 and 5

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O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 & 2 to consider the petitioners representation dated 31.3.2017 i.e.to cancel the Sale Deed dated 24.10.2016 registered on 21.12.2016 vide Document No.3452 of 2016 on the file of the 3rd respondent in the name of the 5th respondent.

2. It is the case of the petitioner that, the petitioner and the fourth respondent are wife and husband, as they got married on 07.12.1994. For the said couple, under the Scheme envisaged by the State Government for landless poor, a land to the extent of 0.30.5 Ares at Survey No.47/8, Thiruvadathanur Village, Tiruvannamalai District was assigned by the Revenue authorities. Since then, the petitioner and her husband have been in possession and enjoyment of the same.

3. While so, there has been some misunderstanding between the petitioner and her husband ie., the fourth respondent. Therefore, it seems that, they got separated and living separately.

4. Taking advantage of the said situation, the fourth respondent was trying to sell the property ie., the land assigned to the petitioner and the fourth respondent, despite the fact that, there is a block period of thirty years prohibiting the sale.

5. In this regard, even though an objection has been raised by the petitioner at the Registration Office as well as the Revenue Authorities, the Registering Authorities has registered the sale executed by the fourth respondent to and in favour of the fifth respondent on 21.12.2016 in Document No.3452 of 2016 on the file of the third respondent and pursuant to the same, the Tahsildar also issued patta in the name of the fifth respondent for the land in question. Therefore, in order to cancel the said sale deed in Doc.No.3452 of 2016, dated 21.12.2016, the petitioner has given a representation to the first respondent on 31.03.2017. However, since the said representation to cancel the sale deed has not been considered, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

6. Heard Mr.S.Ambigapathi, learned counsel appearing for the petitioner, who after having reiterated the aforesaid facts, would seek the indulgence of this Court for suitable direction to the second respondent to decide the representation of the petitioner on merits within a time frame.

7. Heard Mr.P.Purushothaman, learned Government Advocate, appearing for the official respondents / respondents 1 to 3, who would submit that, once a sale deed is registered by the registering authority, at the instance of any third party it cannot be canceled and in this regard, if at all the third party has got any grievance over the registering of the document and to cancel the sale deed and to declare the same as null and void, the third party has to approach only the Civil Court.

8. He would also submit that, however, insofar as any fraud is committed, fraudulently any document is registered before the registering authorities, in order to enquire the same, whether the officials and officers of the Registration Department has involved in any such crime in registering such fraudulent document, only to have a limited enquiry to find prima facie truth to initiate disciplinary proceedings as well as criminal proceedings against such erring officials of the Registering Department within the meaning of Section 83 of the Registration Act, an enquiry can be conducted by the District level Registration Officer and therefore, if at all the petitioner has got any grievance with regard to the document in question, which, according to the petitioner has been made fraudulently and got registered, certainly the representation of the petitioner dated 31.03.2017 would be considered by the registering authority by forwarding the same to the District Registrar, the second respondent herein, to conduct an enquiry under Section 83 of the Act and to find out the truth. Beyond which, the plea raised by the petitioner to cancel the sale deed in question cannot be accepted or considered by the registering authority, he contended.

9. Heard Mrs.V.Suguna, learned counsel appearing for the private respondents, who would submit that, the sale deed in question has been made validly and absolutely there is no fraudulent transaction in the said sale, as alleged by the petitioner. Therefore, there is no need to conduct any enquiry by considering the representation of the petitioner dated 31.03.2017.

10. I have considered the rival submissions made by the learned counsel on either side and also perused the materials placed on record.

11. As has been rightly pointed out by the learned Government Advocate, once the sale deed is registered and the document has been released, it cannot be canceled by the registering authority at the instance of any third party like the petitioner. Therefore, in this regard the parties can be relegated to the Civil Court to adjudicate the issue to establish their rights.

12. However, since there has been an allegation on behalf of the petitioner against the registering department that fraudulently the registration has taken place, in order to enquire the same, for the limited purpose of finding out the truth to the extent that any of the officials of the registering authority has involved in any such fraudulent transaction or not, the second respondent can very well conduct an enquiry within the meaning of Section 83 of the Registration Act and

therefore, in this regard, the representation submitted by the petitioner to the first respondent can be forwarded to the second respondent for conducting such enquiry with his instructions.

13. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order :

That there shall be a direction to the first respondent to forward the representation of the petitioner dated 31.03.2017 to the second respondent for the purpose of conducting an enquiry to find out the truth to take action within the meaning of Section 83 of the Registration Act, within a period of three months from the date of receipt of a copy of this order, and send a report to the first respondent, who can take action to initiate any proceedings, if ultimately anything found out in such enquiry on the involvement of the Registration Department officials with regard to the sale in question.

14. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

tsvn/kst

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 028.
2. The District Registrar,
Registration Department, 5th Street,
Gandhi Nagar, Near Tiruvannamalai Railway Station
Tiruvannamalai.

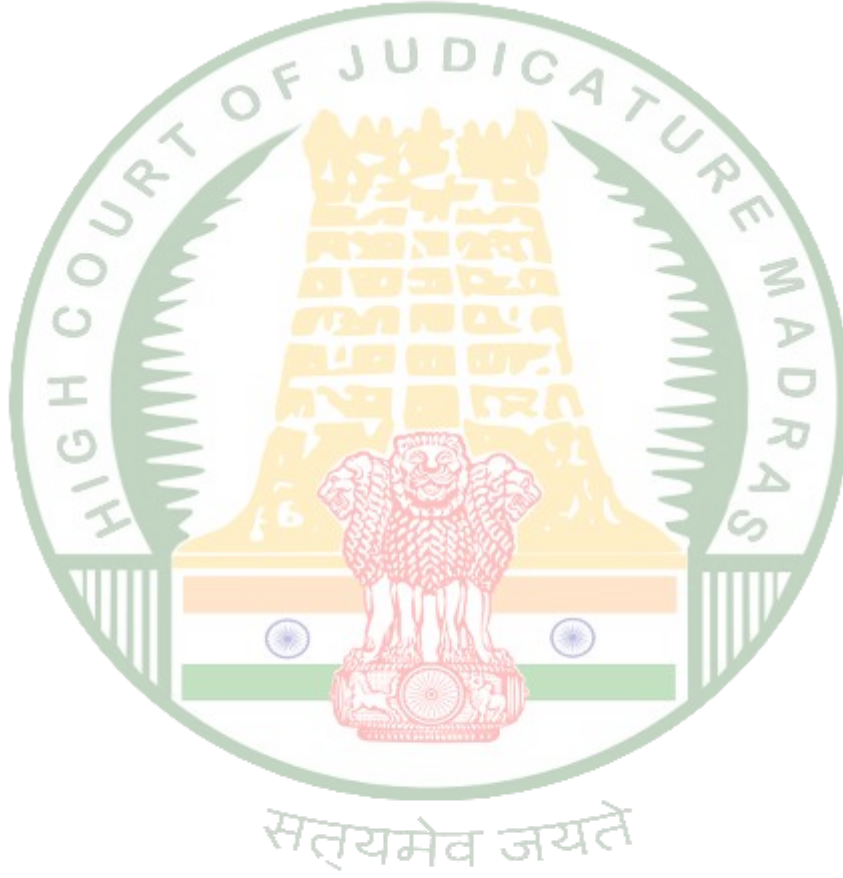
3. The Sub Registrar, Thandarampattu Sub Registrar Office
Thandarampattu Taluk,
Tiruvannamalai District.

+1cc to Mr.S.Ambigapathi, Advocate, S.R.No.25220

+1cc to the Government Pleader, S.R.No.25669

W.P.No.15689 of 2017

KJ(CO)
CS/28/06/2021



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