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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2367 of 2022
and
W.M.P.Nos.2527 of 2022

P.Chinnammal

... Petitioner

Vs.

1. The Inspector General of Registration
No.100, Santhome High Road,
Mullima Nagar, Mendevelipakkam,
Raja Annamalai Puram,
Chennai, Tamil Nadu 600 009.
2. The Deputy Inspector General of Registration
No.312, 3rd Floor,
District Collector's Office
Salem 636 001.
3. The District Register
Dharmapuri District Register Office,
Dharmapuri,
Dharmapuri District.
4. The Sub-Registrar Dharmapuri Joint-II
Sub-Registrar Office, Joint-II
Dharmapuri 636 701.
5. Mr.Thangamai
6. Mr.Kolathuran @ Madhu

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 4th respondent to take the necessary action as per the petitioner's representation dated 16.12.2021, to make Appropriate Entry in Encumbrance in pending Civil Suit Numbers in O.S.No.213 of 2013 and 79 of 2018 before the Sub-Court, Dharmapuri and consequently direct the 4th respondent further not register any documents in Survey Numbers 294/2B, 270/1B, 270/1D, 290/2B, 270/2D and 233/1, 262/3, 262/9 Naikanahalli Village, Dharmapuri District.



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For Petitioner : Mr.C.Palanisamy
For Respondents : Mr.Yogesh Kannadhasan
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus, to direct the 4th respondent to take the necessary action as per the petitioner's representation dated 16.12.2021, to make Appropriate Entry in Encumbrance in pending Civil Suit Numbers in O.S.No.213 of 2013 and 79 of 2018 before the Sub-Court, Dharmapuri and consequently direct the 4th respondent further not register any documents in Survey Numbers 294/2B, 270/1B, 270/1D, 290/2B, 270/2D and 233/1, 262/3, 262/9 Naikanahalli Village, Dharmapuri District.

2. The case of the petitioner is that the petitioner has the ancestral property, and the aforesaid property has been owned by one viz., Mr.Umayyan @ Perumal and his legal heirs, along with the petitioner. There are seven legal heirs and their families were enjoying the aforesaid property without any hindrance, out of seven legal heirs only five legal heirs are entitled and had rights to the said ancestral property. In such situation, one of the legal heir Mr.Thandavarayan has created a document with one Mr.Kolathuran @ Madhu and thereafter executed another document in the favour of Mr.Thangamani. Therefore, the conspiracy arises among those legal heirs to expropriate the above said heritage property. Thereafter, the petitioner has filed a Partition Suit before the Sub Court, Dharmapuri in O.S.No.213 of 2013. However, the above said O.S. was decreed exparte and it was reopened subsequently and the same is pending. Thereafter, many suits were filed with regard to the disputed property and the same is pending viz., O.S.No.46 of 2012 and O.S.No.79 of 2018. Therefore, the petitioner has made a representation dated 16.12.2021 to the 4th respondent/Sub-Registrar not to register any documents in the aforesaid survey numbers till the disposal of the suits. Despite the same, till date the 4th respondent has not taken any steps to consider the petitioner's representation dated 16.12.2021. Hence, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner submits this Court may issue a direction to the 4th respondent to consider the petitioner's representation dated 16.12.2021 and pass orders within a particular time frame fixed by this Court.



4. The learned Special Government appearing on behalf of the respondents submitted that already the suit is pending in respect of property between the petitioner and the private respondents and the lower Court has not passed restrained order as against the 4th respondent. Unless any restrained order is passed as against the 4th respondent, the 4th respondent will not entertain any document submitted by the petitioner. In this case, in the absence of any restrained order as against the respondents 5 & 6, the 4th respondent have no power to entertain the petitioner's representation as per the Registration Act.

5 Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondents and perused the materials available on record.

6. The fact in the present case is not in dispute. Admittedly, there was a property dispute between the respondents 5 & 6 and the petitioner. With regard to the disputed property, the petitioner filed a suit as against the respondents 5 & 6 herein and the same is pending. The grievance of the petitioner is that the respondents 5 & 6 were continuously trying to sell the disputed properties. Hence, the petitioner made a representation to the 4th respondent to make entries in the encumbrance as the pending civil cases.

7. Without getting any restrained order by the Court below, the 4th respondent have no power to take action against the respondents 5 & 6. Hence, this Court cannot be considered the prayer sought for by the petitioner and the same is liable to be rejected. However, liberty is granted to the petitioner to approach the competent Civil Court for appropriate remedy.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

jd/rli

To

1. The Inspector General of Registration
No.100, Santhome High Road,
Mullima Nagar, Mendevelipakkam,
Raja Annamalai Puram,
Chennai, Tamil Nadu 600 009.



2. The Deputy Inspector General of Registration
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4. The Sub-Registrar Dharmapuri Joint-II
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Dharmapuri 636 701.

+1cc to the Government Pleader, S.R.No.9880

W.P.No.2367 of 2022
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GPL (CO)
SU (09/03/2022)