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W.P.No.21481 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.21481 of 2013
and W.M.P.Nos.1, 2 & 3 of 2013
and W.M.P.No.26590 of 2019

D.Selvi

... Petitioner

VS.

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinappakkam, Chennai – 600 028.
- 2.The District Registrar (Admn),
Office of the District Registrar of Chengalpattu,
No.17/33, Rajaji Street, Chenglept – 603 001.
- 3.The Sub-Registrar,
Office of the Sub-Registrar (Registration Department) Cheyyur,
At Cheyyur and Taluk, Kancheepuram District.
- 4.The Deputy Director of Town and Country Planning,
(i/c) Chengalpattu Region,
No.13, Varadharajan Street,
Vedachalam Nagar,
Chengalpattu, Chennai – 603 001.
- 5.M/s.Coramandal Beach Properties Private Limited,
Represented by its Director, Monish Ranjan,
having its Registered Office at Flat No.1-B,
Ranga Prasad Apartments,



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No.9, Binny Road, Poes Garden,
Chennai – 600 086.

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6.G.Madusudana Reddy

7.G.Thirupal Reddy

8.K.Vinayagam

9.S.Dhanalakshmi

10.M.Radhakrishnan

11.M/s.Shreyas Investments,

Represented by its Partner,

N.Balasubramanian, S/o.Late M.Natarajan,

Having office at No.240, Royapettah High Road,

Chennai – 600 014.

12.K.Krithivasan

13.Savithiri Krithivasan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to forbear the 3rd respondent from registering the sale deeds or any other kind of instruments in respect of plots made in the unapproved lay-outs formed by the respondents 5 to 11, their agents and other, comprised in Survey Nos.611/126 to 133, 3B1F2A, 3B1F3A, 615/2 to 7, 612 Part, 613, 614, 616 to 643 and 202 to 209 and its respective Sub-division survey numbers of Moogaiyur (Madura) Thenpattinam Village, Cheyyur Taluk Taluk of the District Kancheepuram in accordance with Sections 34 and 35 of the Registration Act, 1908 and read with Rules 55 and 162-A made there under.

For Petitioner : Mr.B.Dayalan

For Respondents : Mr.G.Krishna Raja for RR1 to 4
Additional Government Pleader



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: Mr.C.Jagadish for R5
: Mr.R.Vijayaraghavan for R6 & R7
: Mr.Sathish Parasaran for R11
: Mr.V.Srikanth for R13
: R8 to R10 – Tapal due

ORDER

This Writ Petition has been filed to to forbear the 3rd respondent from registering the sale deeds or any other kind of instruments in respect of plots made in the unapproved lay-outs formed by the respondents 5 to 11, their agents and others, comprised in Survey Nos.611/126 to 133, 3B1F2A, 3B1F3A, 615/2 to 7, 612 Part, 613, 614, 616 to 643 and 202 to 209 and its respective Sub-division survey numbers of Moogaiyur (Madura) Thenpattinam Village, Cheyyur Taluk Taluk of the District Kancheepuram in accordance with Sections 34 and 35 of the Registration Act, 1908 and read with Rules 55 and 162-A made there under.

2.The case of the petitioners is that they are the co-owners of the property comprised in Old Survey No.619/1C and New S.Nos.619/1C1A1A and 1C1A1A-51 Cents,. 636/1A & 1C-16 Cents and 636/1A & 1C-Acre 1 and 4 Cents and totally measuring to an extent of Acre 1.71 Cents of the said village and also some other properties in the said village. While that being so,



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the 9th respondent had entered in to an agreement with the 10th respondent and created a forged document, an agreement for sale dated 25.07.2012 registered as Document No.3646 of 2012, with an intention to cause damage and injury to the other co-owners. Thereafter, the petitioner's younger brother, one of the co-owner had submitted a protest petition in Doc.No.26 of 2012 dated 10.09.2012 before the 3rd respondent in respect to the above said fraudulent sale agreement executed between the 9th and 10th respondents.

3.In the above circumstances, the petitioner along with other co-owners filed a suit in O.S.No.329 of 2012 on the file of the District Munsif Court, Madurantakam for declaration, partition and permanent injunction against the 9th and 10th respondents and other co-owners and the same is pending adjudication, along with I.A.No.1763 of 2012 seeking interim injunction 'not to alienate or encumber the suit property till the disposal of the above suit'. While so, on 17.03.2013, 10th respondent along with respondents 5 to 8 and their henchmen attempted to interfere with the joint possession and enjoyment of the petitioner's above said property. Therefore, the petitioner along with his co-owners filed a suit in O.S.No.150 of 2013 on the file of District Munsif Court at Madurantakam along with I.A.No.723 of 2013 seeking interim injunction.



While so, the respondents 5 to 11 created lay-out plan in respect of the property comprised in S.Nos.611/126 to 133, 3B1F2A, 3B1F3A and 615/2 to 7 and also in S.Nos.612 Part, 613, 614, 616to 643 and 202 to 209 by a different and separate lay-out plans which are unapproved and not sanctioned by the 4th respondent, which is mandatory under Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971.

4.The petitioner further submits that the registration of the unapproved plots by the 3rd respondent is against the public policy under the Registration Act. The 11th respondent had sold one of the plot bearing Plot No.22 in the said layout to the respondents 12 & 13 vide registered Sale Deed Doc.No.2504 of 2013 dated 10.07.2013. Likewise the 11th respondent had sold more than 30 plots in the above lay-out. As the said sale deeds are forged documents, it becomes necessary for the 3rd respondent not to release the said documents which had already been registered by him to the respective purchasers in the interest of the parties. The petitioner further states that a Protest Petition which was registered as Doc.No.29 of 2013 dated 29.07.2013 was submitted to the 3rd respondent in respect of the Sale Deeds dated 10.07.2013 to 12.07.2013 which are forged. Since, the said protest petition



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was not considered by the 3rd respondent, the petitioner has come forward with the present Writ Petition.

5.The learned counsel appearing for the petitioner submitted that this Writ Petition is filed to forebear the 3rd respondent from registering the sale deed or any kind of instrument in respect of plots made in unapproved layout formed by the respondents 5 to 11.

6.The learned counsel appearing for the respondent has filed a counter and for better appreciation, the relevant Paragraph of the said counter is extracted hereunder:-

“3.The respondent respectfully submits that the averments of the petitioner are not sustainable in law since new Section Viz,Sec.22-A has been inserted in the Registration Act, 1908 with effect from 20.10.2016. Clause (2) of the above said Section mandates that “No instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned shall be registered. Provided, that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site”.



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Further this Writ Petition is filed by the petitioner claiming rights over the survey numbers in question and praying relief to direct this respondent to act as per Rule 55 of the Registration Rules. Rule 55 of the Registration rules is against the petitioner which mandates that the registering officer has no authority to verify whether the person executed a document has right, title and interest over the property. Further it is submitted that the petitioner stated that she had filed suits in lower courts in Maduranthagam and the same are pending disposal. Be that as it may, the petitioner ought to have impleaded this respondent as a defendant after issuance of notice under Section 80 CPC seeking interim order restraining this respondent from entertaining any registration in the survey numbers in question. But, the petitioner failed to do and praying this Hon'ble Court to restrain this respondent from entertaining registration based on her alleged right and claim over the survey numbers in question in this Writ Petition which is not sustainable in law and as such this Writ Petition which is not sustainable in law and as such this Writ Petition is liable to be dismissed at the threshold.”

7.Learned Additional Government Pleader appearing for the official respondents fairly submitted that Section 22-A of the Registration Act bars registration of documents, which are not within the approved layout and the said plots cannot be registered. Therefore, registration, if any, made, would be



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in violation of the provisions of the Registration Act.

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8.Heard the learned counsel appearing for the parties and perused the materials available on record.

9.It is evident from Section 22-A of the Registration Act that no plot, which is within an unapproved layout could be registered and the registration authority is barred from registering the same. Further, it has been fairly conceded by the learned Additional Government Pleader that registration of plots in unapproved layouts is barred under Section 22-A of the Registration Act.

10.Recording the said submission made by the learned Additional Government Pleader that plots in the unapproved layout will not be registered, no further orders are required to be passed in this petition and, accordingly, this Writ petition is closed. Consequently, connected miscellaneous petitions are also closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No



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M.DHANDAPANI,J.

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