



W.P.No.16512 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.16512 of 2016

and

W.M.P.No.14269 of 2016

1. Kanagavalli (Deceased)

2. S.Mohan

3. S.Sivaprakasam '

(P2 & P3 substituted as LR's of deceased sole
Petitioner vide order dated 21.07.2022 made
in W.M.P.5273 in W.P.No.16512 of 2016)

. . . Petitioner

Vs.

1. The District Registrar,
Chennai (North)
Chennai

2. The Sub-Registrar
Semblum,
Thiruvallur District.

3. Sulochana

4. S.Abhirami

5. Alaguvel

. . . Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate writ, call for the records of the impugned order dated 11.04.2016 bearing Ref.No.3892/B1/2015 passed by the 1st respondent herein and quash the same and consequently direct the 1st respondent to cancel the release deed dated 18.05.2004 registered as Document No.4071 of 2004 in the office of the Sub Registrar, Sembium and initiate prosecution against the respondents 3 to 5 for playing fraud to grab the petitioner's land situated in Servey No.1471/13a3 now Madhabaram Taluk, previous Ambattur Taluk, Tiruvallur District by executing Release Deed mentioning the petitioner's land survey No.

For Petitioner : M/s. T.Saikrishnan for
for M/s.S.Manian for P1 & P2

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader for R1 & R2
: M/s. R.Manickavel for R3, R4 & R5

ORDER

The present petition has been filed seeking to quash the impugned order dated 11.04.2016 passed by the 1st Respondent and direct the 1st Respondent to cancel the release deed dated 18.05.2004 and further, initiate prosecution against the respondents 3 to 5 for playing fraud to grab the



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petitioner's land situated in Survey No.1471/13A3 now Madavaram Taluk, previous Ambattur Taluk, Tiruvallur District by executing the Release Deed mentioning survey No of the petitioner's land.

2. It is the case of the petitioner that she is the owner of the subject property in Survey No.1471/13AB and 13AC Madhavaram Village. The above said property was settled in favour of the petitioner by her husband through a settlement deed dated 14.02.2005. While being so, the 5th respondent had filed a suit in O.S.No.186 of 2004 on the file of the District Munsif Court, Tiruvotriyur as against the petitioner's deceased husband, claiming that the subject property had been purchased by his father, from one Varadappa Naicker and Masilamani Naicker by way of a sale deed dated 04.09.1979, in which, the Survey No was mentioned as 1480/13A3. However, the respondents 3 & 4 claiming to be the sisters of the 5th Respondent have executed a false Release Deed dated 18.05.2004 in favour of the 5th respondent in respect of the property in Survey No.1471/13A3 and the said release deed has been registered by the 2nd Respondent. Aggrieved by the same, the petitioner had made a complaint under Section 82 of the



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Registration Act, 1908 before the 1st respondent, pursuant to which, the order impugned came to be passed. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submits that reasoning given by the 1st Respondent with regard to parallel proceeding is wholly erroneous. It is further submitted that the petitioner has nowhere suppressed the suit in O.S.No.186/2004 in his earlier W.P.No.1122 of 2016 and the said suit was filed by the 5th respondent for recovery of possession of the property for which the 5th respondent has no title and only the claim is based on the release deed executed by respondents 3 & 4. Only to ventilate his grievance, the petitioner had given the petitioner u/s 82 of the Registration Act in which the 1st respondent has ample power to go into the veracity of the registered document and come to a conclusion. However, the 1st respondent, without considering the materials in property perspective has passed the present order, which is wholly erroneous.



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4. On the above contentions, this Court heard the learned Special Government Pleader appearing for respondents 1 & 2 as well as the learned counsel appearing for the respondents 3 to 5 and perused the materials available on record.

5. It is evident from the order passed by the 1st respondent, the pendency of the suit, having not been brought to the notice of the Court in W.P.No.1122 of 2016 had resulted in the impugned order being passed. However, it is evident from the record that the suit has been filed by the 5th respondent and not by the petitioner, claiming recovery of possession. Further, the whole claim of the petitioner is on the basis of the title to the property and the title of the 5th respondent has to be established and only on *prima facie* satisfaction, the 1st respondent can accept the release deed. However, the impugned order is bereft of any details as to the *prima facie* satisfaction of the 1st respondent. In such circumstances, the impugned order cannot be allowed to survive.



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6. In such view of the matter, while this Court sets aside the imugned order, this Court directs the petitioner to file a fresh application before the 1st respondent, along with all the necessary documents in support of his claim and the 1st respondent is directed to consider the same, after affording an opportunity of hearing to the petitioner and also the private respondents and dispose of the application as expeditiously as possible.

7. Accordingly, this Writ Petition is allowed with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No



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To

1. The District Registrar,
Chennai (North)
Chennai
2. The Sub-Registrar
Semblum,
Thiruvallur District.



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M.DHANDAPANI, J.

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