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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.5496 of 2022
and
W.M.P.No.5576 of 2022

P.Ganesarajan

... Petitioner

Vs.

1.The District Registrar,
Salem District (West),
Room No.313, Collectorate,
Salem - 01.

2.The Sub-Registrar,
Omalur Sub-Registration District,
Omalur, Salem District.

3.P.Murugesan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare the foot note made by the 2nd respondent in the encumbrance certificate in respect of the property situated in S.No.105/2 and 105/2C of Kotta Mettupatti Village, Omalur Taluk, Salem District to an extent of 63 cents is null and void.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for RR1 & 2

O R D E R

These Writ Petitions have been filed seeking for issuance of a Writ of Declaration, to declare the foot note made by the 2nd respondent in the encumbrance certificate in respect of the property situated in S.No.105/2 and 105/2C of Kotta Mettupatti Village, Omalur Taluk, Salem District to an extent of 63 cents is null and void.



2. The case of the petitioner is that the petitioner and one Kavitha were the owners of the aforesaid property and they purchased the property jointly by way of a sale deed vide Doc.No.5472 of 2007 dated 28.08.2007 on the file of Omalur Sub-Registry. However, the petitioner purchased the said property from one Thanarasu and Arumugam through their power agent one Soundirarajan vide power Doc.No.633/2007 and the petitioner is in possession and enjoyment of the property. Thereafter, the 1st respondent/District Registrar sent the communication dated 12.11.2021 to the petitioner and directed them to appear for enquiry along with the records on 23.11.2021. Accordingly, the petitioner, co-owner and the power agent appeared before the 1st respondent and submitted their record and prayed to cancel the document namely Doc.No.5840/2007 dated 11.09.2007 and 454/2021 dated 19.01.2021. After receiving the documents from the petitioner, there is no notice, communication and final order from the 1st respondent till date. Whereas, the 2nd respondent has made an impugned entry/footnote in the encumbrance certificate based on the proceedings of the 1st respondent in Na.Ka.No.6687/E4/2021 dated 20.01.2022 and prohibiting the registration based on the documents viz., Doc.No.5472/2007 and 6968/2021 and held that the Doc.No.6968/2021 is void document. Challenging the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner submitted that the respondents 1 & 2, without giving any opportunity to the petitioner, passed the impugned foot note, which is clear violation and the said impugned order has not been served to the petitioner till date. The learned counsel further submitted that the first respondent has failed to consider that the 3rd respondent has not having any valid title or right over the property since the petitioner has been purchased the subject property. Hence, the impugned foot note issued by the second respondent is liable to be quashed.

4. The learned Special Government Pleader for the respondents submitted that the order of the second respondent will be furnished to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

5. In view of the fair submission made by the learned Special Government Pleader, this Court directs the respondents to communicate the order passed by the second respondent to the petitioner within a period of two weeks from the date of receipt of a copy of this order. After the receipt of such order, the petitioner is at liberty to work out his remedy in the manner known to law.



6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

jd/rli

To

1.The District Registrar,
Salem District (West),
Room No.313, Collectorate,
Salem - 01.

2.The Sub-Registrar,
Omalur Sub-Registration District,
Omalur, Salem District.

+1cc to Mr.S.Sivakumar, Advocate SR.No.16322

+1cc to Government Pleader SR.No.16996

W.P. No.5496 of 2022
and
W.M.P.No.5576 of 2022

SSD(CO)
GMY(05/04/2022)