



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.7148 OF 2022

AND

W.M.P.NOS.7171 AND 7173 OF 2022

1. Shaz Anwar  
2. M.Vetri Selvi ... Petitioners

.Vs.

1. The Inspector General of Registration,  
Santhome High Road,  
Mylapore, Chennai.

2. The Sub Registrar,  
Pallavaram Sub Registration Office,  
Chennai.

3. B.Umapathi ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first and second respondents to cancel the Release Deed, dated 05.08.2021 registered as Document No.6478 of 2021 at the second respondent's Sub Registration Office in favour of third respondent after conducting enquiry for the property situated at Survey No.356/9A, Keelkattalai Village, Boopathi Nagar, Chennai.

For Petitioners : Mr.G.Vijay Anand

For Respondents : Mr.Yogesh Kannadasan  
R1 and R2 Special Government Pleader

O R D E R

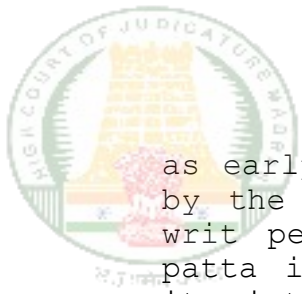
This Writ Petition has been filed to issue a Writ of Mandamus, directing the first and second respondents to cancel the Release Deed, dated 05.08.2021 registered as Document No.6478 of 2021 at the second respondent's Sub Registration



2. Mr. Yogesh Kannadasan, learned Special Government Pleader, takes notice for the first and second respondents. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission stage itself. No adverse order is passed against the third respondent and hence, his presence is dispensed with.

The case of the petitioners is that the petitioners had purchased a vacant site from one G.Vijayalakshmi, wife of Gajaraj who is the absolute owner of the property, situated at Survey No.356/9A, Keelkattalai Village, Boopathi Nagar, Chennai, by the registered sale deed, vide Document No.763 of 2005, dated 18.02.2005 on the file of the Sub Registrar Office, Pallavaram. Thereafter, the petitioners came to know that the said property was brought for an auction by Tamil Nadu Mercantile Bank, TTK Road Branch, Chennai, for the reason that the said property was mortgaged in favour of the petitioners' vendor viz., G.Vijayalakshmi and her loan account had turned Non-Performing Asset. Thereafter, the petitioners participated in the auction proceedings and approached originally to DRT-II, Chennai and informed them their title and also made objections with regard to auctioning of the property by the Bank. Further, the property was again sold in favour of the petitioners by Tamil Nadu Mercantile Bank as per the direction of this Court in C.R.P.No.997 of 2006 dated 12.02.2008. Therefore, again the petitioners purchased the property, which they already had title, by paying a sale consideration amount of Rs.51,50,000/-.

5. On verification, it revealed that the patta was granted in favour of one B.Chakkubai and B.Umapathi. Further, on verification it was found that the said B.Chakkubai had expired



as early as in the year 1989 and the patta has been manipulated by the third respondent. Thereafter, the petitioners filed a writ petition in W.P.No.21276 of 2021 challenging the illegal patta issued in favour of the third respondent. This Court by its interim order in W.M.P.No.22516 of 2021 in W.P.No.21276 of 2021 dated 01.10.2021, issued an interim direction restraining the fifth and sixth respondents in W.M.P.No.22516 of 2021 in W.P.No.21276 of 2021, their employees, agents, representatives etc, from in any manner interfering with the petitioners' peaceful possession of the property in Survey No.356/9A, Keelkattalai Village, Boopathi Nagar, Chennai. Later, on verification, revealed that the third respondent herein executed an illegal release deed registered vide Document No.6478 of 2021, dated 05.08.2021. In turn, the third respondent executed a Power of Attorney in favour of one Thiran Kumar, registered vide Document No.6479 of 2021.

6. Therefore, the petitioners made a representation before the law enforcing agency for taking action against the third respondent and to cancel the illegal Release Deed and Power of Attorney. Hence, the present petition is filed.

7. The learned counsel for the petitioners submitted that this Court may issue a direction to the petitioners to make an appropriate representation before the second respondent within a period of two weeks and if any such representation is filed on the file of the second respondent, the second respondent may pass appropriate orders within the stipulated time as fixed by this Court.

8. Learned Special Government Pleader submitted that though the present writ petition is not maintainable, if any representation is filed before the first and second respondents, it will be considered and appropriate orders will be passed on merits within the time frame to be fixed by this court.

9. Heard, the learned counsel for the petitioners and the learned Special Government Pleader appearing on behalf of the first and second respondents and perused the materials available on record.

10. Considering the facts and circumstances of the case, the petitioners claim that they are the owner of the property and the property was purchased by way of an auction and sale certificate was issued in favour of the petitioners and further the petitioners claim is that for the very same property, the third respondent had created fraudulent Release Deed and also a Power of Attorney in favour of one Thiran Kumar. However, no representation was made before the Registration Officer for taking action in terms of Section 68 of the Registration Act,



1908 and the prayer sought for in this present case cannot be granted. However, the petitioners are given liberty to file an appropriate complaint before the second respondent in terms of Section 68 of the Registration Act, 1908, as against the third respondent. If such complaint is filed on the file of the second respondent, the second respondent is directed to pass appropriate order after providing an opportunity of hearing to the petitioner as well as the third respondent on merits and in accordance with law, as early as possible.

11. With the above directions, this writ petition stands disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mn/rli

To

1. The Inspector General of Registration,  
Santhome High Road,  
Mylapore, Chennai.
2. The Sub Registrar,  
Pallavaram Sub Registration Office,  
Chennai.

+1cc to M/s.G.Vijay Anand Associates, Advocate, S.R.No.21001  
+1cc to the Government Pleader, S.R.No.21368

W.P.NO.7148 OF 2022 AND  
W.M.P.NOS.7171 AND 7173 OF 2022

SKM(CO)  
PBS/11/04/2022