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W.P. No.15980 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.15980 of 2022

and

W.M.P.Nos.15299 to 15301 of 2022

1. Chinnasami
2. Arumugham
3. Kadamban
4. Palani
5. Periathambi

... Petitioners

Vs.

1. The Joint Inspector General of Registration,
Joint Inspector General of Registration Office,
No.50, Sankara Naidu Street,
Thiruppadiripuliyur,
Cuddalore 607 002.
2. The District Registrar,
Cuddalore (Administration),
Thiruppadiripuliyur,
Cuddalore 607 002.
3. The Sub-Registrar,
Thirunavalur,
Ulundurpet Taluk,
Kallakurichi District.
4. Mr.T.Sivagnanam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India

praying for issuance of a Writ of Certiorarified Mandamus, call for the



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records and quash the impugned order dated 25.02.2022 passed by the second respondent in Na.Ka.No.138/Aa/Aa4/2021 and directing respondents 1 to 3 to remove all consequent entries made in encumbrance certificate.

For Petitioners : Mr.D.Baskar

For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records and quash the impugned order dated 25.02.2022 passed by the second respondent in Na.Ka.No.138/Aa/Aa4/2021 and direct respondents 1 to 3 to remove all consequent entries made in encumbrance certificate.

2. The case of the petitioners is that the petitioners 1 to 3 are the sons of fifth petitioner, and petitioners 4 and 5 are brothers. The fourth respondent is the son of one Thangavel, who had sold away the properties to the petitioners several decades back. Subsequently, there were interim arrangements including execution of Settlement Deeds between the petitioners. However, the 4th respondent made an application under Section 68(2) of the Registration Act, seeking cancellation of Settlement Deed. After hearing the parties, the 2nd respondent had cancelled the Settlement Deed.



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Challenging the same, the present Writ Petition is filed.

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3. Since no adverse order is being passed against the fourth respondent, notice to the fourth respondent is dispensed with.

4. The learned counsel for the petitioner submitted that, as against the order dated 25.02.2022 passed by the second respondent, the petitioner preferred an appeal before the first respondent on 21.03.2022. The appeal was not disposed of, and in the meanwhile, the succeeding party before the second respondent created Encumbrance Certificate, which is not sustainable. Accordingly, the learned counsel prayed for passing appropriate orders.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that, as against the order passed by the second respondent, there is effective remedy of appeal available before the first respondent within a period of six weeks, which he has availed and the present Writ Petition, is not sustainable. Accordingly, he prays for dismissal of this Writ Petition.

6. The facts in the present case are not in dispute. Admittedly, the 4th respondent made application on 18.01.2021 before the second



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respondent/District Registrar for cancellation of Settlement Deeds.

Subsequently, the Settlement Deed was cancelled on 25.02.2022. However, as rightly pointed out by the learned Special Government Pleader, as against the order of second respondent/District Registrar, there is effective remedy of appeal available before the first respondent and the petitioner has also preferred appeal before the first respondent on 21.03.2022.

7. In view of the above, this Court without interfering with the impugned order in this Writ Petition, directs the first respondent to dispose of the said appeal filed by the petitioner, without influencing by any of the observations made by the second respondent within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.06.2022

Index : Yes / No
Speaking order : Yes / No
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To



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M.DHANDAPANI, J.



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