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W.P.No.16759 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16759 of 2021

and

W.M.P.Nos.17723, 17722 of 2021 and W.M.P.No.22119 of 2022

K.M.P.Shankaran

... Petitioner

Vs.

1. The District Registrar,
Salem (West),
Office of the District Collector,
Salem District, Salem.

2. V.Saravanan

3. S.Natarajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records to the proceedings of the first respondent dated 28.07.2021 in Na.Ka.No.2323/E4/2021 and quash the same.

For Petitioner : M/s.K.Selvaraj

For R1 : Mr.E.Vijay Anand
Additional Government Pleader

For R3 : Mr.P.Mathivanan



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ORDER

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This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to quash the proceedings of the first respondent dated 28.07.2021 in Na.Ka.No.2323/E4/2021.

2. The case of the petitioner is that he purchased the properties in S.No.11/1 of an extent of 53 hectares out of 1 acre 31 cents by virtue of Sale Deed dated 04.07.2016 and another property of an extent of 53.03 hectares out of 1 acre 31 cents in the above said survey number vide Sale Deed dated 02.11.2016. Thereafter, the second respondent fabricated two sale deeds and clandestinely obtained the signature of the petitioner. Aggrieved over the said act, the petitioner filed a suit in O.S.No.327 of 2017, before the III Additional District Munsif, Salem, to declare the above said Sale Deeds executed by the second respondent as null and void. In the year 2018, the third respondent along with his brothers filed a suit in O.S.No.252 of 2018, on the file of I Additional District Court, Salem against the petitioner's vendor namely Sakthivel, petitioner and others to declare the sale deeds of the petitioner and other documents as null and void. When the above said suits are pending for adjudication, the third respondent had given a complaint dated 29.03.2021, before the first respondent seeking to cancel the Sale Deeds of the petitioner



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as well as others, pursuant to which the first respondent issued notice of enquiry dated 28.07.2021, to the petitioner to appear for enquiry on 02.08.2021. Challenging the said notice dated 28.07.2021, passed by the first respondent, the petitioner has come up with the present Writ Petition seeking the aforesaid relief.

3. Learned counsel for the petitioner submits that though the suit filed by the third respondent against the petitioner in O.S.No.252 of 2018 is pending on the file of I Additional District Court, Salem, the third respondent had again given a parallel complaint dated 29.03.2021, before the first respondent in respect of the very same cause of action which is not sustainable. Accordingly, he prayed for quashment of the impugned notice dated 28.07.2021.

4. Learned Additional Government Pleader appearing for the first respondent submitted that based on the complaint given by the third respondent dated 29.03.2021, the petitioner was called for enquiry with all the necessary documents vide notice dated 28.07.2021.

5. Learned counsel appearing for third respondent submitted that



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though the suit in O.S.No.252 of 2018 was posted for trial in the year 2018, the petitioner has not come forward to co-operate with the trial and there was no progress in the trial. However, he fairly conceded that this Court may quash the complaint dated 29.03.2021, given by the third respondent and consequently direct the petitioner to co-operate with the trial pending on the file of I Additional District Court, Salem.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Though very many contentions have been advanced, however, it is the claim of the third respondent that though the suit in O.S.No.252 of 2018 on the file of I Additional District Court, Salem was posted for trial in the year 2018, the petitioner has not come forward to co-operate with the trial and there was no progress in the trial. In such view of the matter, this Court without going into the merits of the issue is inclined to dispose of the present Writ Petition with the following directions:

(i) The petitioner is directed to co-operate with the trial of the above said suit in O.S.No.252 of 2018 pending on the file of I Additional District Court, Salem without getting any frequent adjournment.



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(ii) The complaint dated 29.03.2021 given by the third respondent is set aside consequently the impugned notice dated 28.07.2021 issued by the first respondent is set aside.

(iii) The trial Court / I Additional District Court, Salem is directed to decide the dispute between the petitioner and the third respondent without being influenced by the observation made in this order and in the impugned notice dated 28.07.2021 issued by the first respondent within the period of six weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

29.09.2022

Index : Yes / No

Speaking order / Non speaking order : Yes / No

RAP

To

The District Registrar,
Salem (West),
Office of the District Collector,
Salem District, Salem.



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M.DHANDAPANI, J.

RAP

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