

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.17516 OF 2021, 2149, 2156,
4346, 4353, 4415 OF 2022

Arihant Unitech Reality Projects Ltd., (AURPL),
rep.by its Director O.P.Madhav
Old No.25, New No.3,
Ganapathy Colony,
4th Lane, Off Cenotaph Road,
Teynampet,
Chennai 600 018.

... Petitioner in W.P.No.17516 of 2021

1. S.Ramachandran

2. Mrs.B.R.Backiavathi

... Petitioners in W.P.No.2149 of 2022

P.Manivannan

... Petitioner in W.P.No.2156 of 2022

Srinivasan Gopalaswamy

... Petitioner in W.P.No.4346 of 2022

Mrs.Padmavathy Viswanathan

... Petitioner in W.P.No.4353 of 2022

P.Kamal Babu

... Petitioner in W.P.No.4415 of 2022

Vs.

1. The District Registrar,
Chengalpattu,
No.10, Kanchipuram High Road,
(opposite St.Joseph School, near Sub Jail),
Chengalpattu Bazaar,
Chengalpattu 603 002.

2. The Sub Registrar,
Thirupporur,
29, South Mada Street,
Thirupporur 603 110.
3. The Sub Registrar,
Adyar,
Kamaraj Avenue 2nd Street,
Venkata Rathnam Nagar Extension,
Venkata Rathinam Nagar,
Adyar, Chennai,
Tamil Nadu 600 020.
4. Dhamodharan
5. R.Govindhan
6. R.Parthasarathy
7. E.Vasudevan
8. E.Kamalanathan
9. E.Janakiraman
10. R.Thilagam
11. D.Lakshmi
12. D.Manoharan
13. B.Rama
14. B.Uma
15. B.Latha
16. S.Kavitha
17. V.Jamuna
18. D.Mallika
19. S.Shanthi
20. Indian Cements Educational Society Limited
No.827, Anna Salai,
Chennai 600 002.

21. India Cements Limited,
No.827, Anna Salai,
Chennai 600 002.

... Respondents 1 to 21 in W.P.Nos.17516 of 2021,
W.P.No.4353 of 2022, 4415 of 2022, 4346 of 2022,
2156 of 2022, 2149 of 2022

22. Arihant Unitech Reality Projects Ltd., (AURPL),
rep.by its Director O.P.Madhav
Old No.25, New No.3,
Ganapathy Colony,
4th Lane,
Off Cenotaph Road,
Teynampet,
Chennai 600 018.

... 22nd Respondent in W.P.Nos.4353 of 2022,
4415 of 2022, 4346 of 2022,
2156 of 2022, 2149 of 2022

Prayer in W.P.No.17516 of 2021:-

These Writ Petitions filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order dated 6.8.2021 in proceedings Na.Ka.No.936/ B3 / 2021, passed by the 1st respondent herein quash the same and restrain the 1st respondent to 19th Respondent herein in any manner implementing the order dated 6.8.2021 passed in Na.Ka.No.936 / B3 / 2021 and or interfering with the petitioners peaceful possession of the lands comprised in Survey No.183/3 situated in Navallur village, Thirupporur Taluk, Chengalpatt District.

Common Prayer in W.P.Nos.2149, 2156, 4346, 4353, 4415 OF 2022:-

Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records pertaining with ref.No. Na.Ka.No.936/B3/2021 and quash the order dated 06.08.2021 passed by the 1st respondent, The District Registrar, Chengalpattu.

For Petitioners in W.P.No.17516/2021	:	Mr.A.R.L.Sundaresan Senior Counsel for Mr.G.Vivekanand
For RR1 to RR3 in W.P.No.17516/2021	:	Mr.Yogesh Kannadasan Special Government Pleader
For RR4 to RR19	:	Mr.T.V.Ramanujam Senior Counsel for Mr.B.Arvind Srevatsan
For petitioners in W.P.No.2149/2022, 2156/2022, 4346/2022, 4353/2022 & 4415/2022	:	Mr.Gupta and Ravi
For RR1 to RR3 in W.P.No.2149/2022, 2156/2022, 4346/2022, 4353/2022 & 4415/2022	:	Mr.Yogesh Kannadasan Special Government Pleader
For R4 to R19 in W.P.No.2149/2022, 2156/2022, 4346/2022, 4353/2022 & 4415/2022	:	Mr.T.V.Ramanujam Senior Counsel for Mr.B.Arvind Srevasta

COMMON ORDER

Since the facts leading to the present round of litigation are one and the same, these writ petitions are taken up and disposed of by this common order.

2. For the sake of convenience, the vendor / petitioner in W.P.NO.17516 of 2021 and purchasers / petitioners in W.P.Nos.2149, 2156, 4346, 4353, 4415 of 2022, of the property in question are called by their original position.

3. The vendor herein is a consortium of M/s.Arihand Foundation and Housing Limited and M/s.Unitech Limited, one of the leading entities in the real estate market and have complied strictly with the laws of the land. The vendor herein had acquired an extent of 39.66 acres of contiguous lands comprised in various survey numbers, situated in three villages namely Navallur Village, Thazhambur Village and Egattur Village, for development of the said lands into housing sites. The subject matter of this Writ Petition is Survey No.183/3, measuring an extent of 0.49 acres situated in Navallur Village, Thirupporur Taluk, and Chengalpattu District. The said subject land

initially belonged to Muthusamy Gramini and the legal heirs of him, through their power agent conveyed the subject land in favour of the 20th respondent and thereafter, the petitioner purchased the subject land along with the other lands vide Sale Deed dated 24.04.2006. After acquiring the aforesaid 39.66 acres, the vendor developed an extent of 25.14 acres out of the extent of 39.66 acres into housing sites and obtained approval from the local planning authority and sold the subject land to purchasers, who had purchased the property for valuable consideration. While so, one Veerappan, initially filed an application before the Revenue Divisional Officer for cancellation of Patta in the name of the vendor, which was allowed by the Revenue Divisional Officer, vide order dated 09.10.2014 and challenging the same, the petitioners preferred a revision before the District Revenue Officer and the same was allowed vide order dated 21.02.2016. Meanwhile, the respondents 4 to 19 (hereinafter private respondents) herein had filed a Suit in O.S.No.179/2017 on the file of the Subordinate Court, Chegnalpattu, claiming right, interest and title to the subject lands by way of inheritance from one Lakshmi Ammal. In the said Suit, the private respondents had also challenged various instruments such as power of attorney, sale deeds executed in favour of the 20th respondent, the vendor and the purchasers respectively and the said Suit is pending without any interim orders against the vendor.

4. While such being the position, suddenly the 4th respondent herein filed an application before the 1st respondent for cancelling the documents, however, the 1st respondent hurriedly conducted an enquiry and passed the impugned order dated 06.08.2021, declaring that the instruments such as power of attorney, sale deeds, which are the subject matter of suit, executed in favour of the 20th respondent, vendor and in favour of the purchasers as fake and fabricated documents, with further directions to the 2nd respondent to not to register any further documents based on the aforesaid Sale Deeds. Aggrieved by the same, the present petitions are filed by the vendor and purchasers.

5. The learned counsel appearing for the petitioners submitted that the 4th respondent though claims right, interest and title to the subject land under inheritance based on the Sale Deed dated 15.09.1956, the said documents is disputed by the petitioner and the same is being defended in the above said Suit and therefore, when the documents are subject matter of the Suit, filing application and claiming right over the very same subject property before the 1st respondent is not justifiable. Further armed with the impugned order, the 4th respondents along with the henchmen attempted to trespass into the subject land

and starting putting a temporary structure. However after lodging a complaint before the Police and with their intervention, the 4th respondent and his henchmen were removed from the subject land and the complaint of the petitioner has been registered in CSR No.354/2021.

6. The learned counsel appearing for the petitioners further submitted that though the 2nd respondent not vested with the power for cancelling the documents such as Sale Deeds in favour of the purchasers and the power of attorney, infact already the private respondents have invoked the jurisdiction of the competent Civil Court and filed a Suit in O.S.No.179/2017, on the file of the Subordinate Court, Chengalpet, for the very same title in dispute and they were not able to obtain an interim order before the said Court. However, when the Suit is pending with regard to the subject property, the act of the private respondents by making application before the 1st respondent for cancelling the documents, is not justifiable and hence the impugned order is liable to be interfered with.

7. The learned counsel appearing for the private respondents submitted that on the complaint of the 4th respondent, the 1st respondent held that document through which the 4th respondent derived title is a genuine one. One of the vendor to Mrs.Lakshmiammal, have fraudulently granted a general power of attorney to sell 49 cents in the subject land in favour of power agent Mr.Dhanraj N Kochar, who has sold the said land to 20th respondent. The 20th respondent has sold the said 49 cents to the vendor and the purchasers.

8. The learned counsel appearing for the private respondents further submitted that admittedly the private respondents are the owners of the property, however by way of fraudulent means, the land has been sold to the purchasers, which is not sustainable and further the Sale Deed could be cancelled either under Section 77(A) or under Section 68(2) of the Registration Act. Further the learned counsel fairly submitted that this Court may grant liberty to the vendor, purchasers as well as to the private respondents, to canvass all the points before the Civil Court, where the Suit is pending at the instigation of the private respondents in O.S.No.179/2017 and may issue direction to the Civil Court to dispose the matter without being influenced by any of the earlier orders and decide the matter independently after affording opportunity to the vendor, purchasers as well as the private respondents, within a reasonable time as fixed by this Court and further undertakes that the private respondents will not alienate the property till the disposal of the above said Suit.

9. This Court has carefully considered the rival submissions and also perused the materials placed before it.

10. Facts in the present case are not in dispute. The purchasers and vendors claim that they have possessed valid title for the subject property and the private respondents without any title filed the Suit and further they were not able to obtain any interim order in the pending Suit. However they made application before the 1st respondent for cancellation of the Sale Deeds and Power of Attorney documents, which is not sustainable. However, on the application made by the private respondents, the 1st respondent vide the impugned order, had declared the Sale Deed as fraudulent one. Aggrieved by the same, the vendor and the purchasers are before this Court.

11. After carefully considering the materials on record, this Court is of the view that if any opinion rendered in the factual finding recorded by the 1st respondent at this stage, it would adversely affect the interest of the vendor, purchaser and private respondents before the Civil Court, where the Suit is pending. Hence this Court without rendering any opinion on the merits of the case, issues direction to the vendor, purchaser and the private respondents to canvass all the points before the competent Civil Court in the pending Civil Suit in O.S.No.179/2017 and further, till the disposal of the above said Suit, the private respondents shall not alienate the property. The Trial Court without being influenced by any of the earlier orders or present impugned order, is directed to dispose of the Suit independently within a period of twelve months from the date of receipt of a copy of this order, after affording opportunity to the private respondents. Further the present impugned order is subject to the result of the civil suit.

12. For the reasons aforesaid, these Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar,
Chengalpattu,
No.10, Kanchipuram High Road,
(opposite St.Joseph School, near Sub Jail),
Chengalpattu Bazaar,
Chengalpattu 603 002.
2. The Sub Registrar,
Thirupporur,
29, South Mada Street,
Thirupporur 603 110.
3. The Sub Registrar,
Adyar,
Kamaraj Avenue 2nd Street,
Venkata Rathnam Nagar Extension,n
Venkata Rathinam Nagar,
Adyar, Chennai,
Tamil Nadu 600 020.

+1cc to M/s.R.Ramya, Advocate, S.R.No.14069

+5ccs to M/s.Gupta and Ravi, Advocate, S.R.No.13952

+1cc to the Government Pleader, S.R.No.14641, 14643, 14644,
14645, 14646

W.P.Nos.17516 of 2021, 2149,
2156, 4346, 4353, 4415 of 2022

AD(CO)
RLP(06/04/2022)