



W.P.No.19684 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19684 of 2022 and
W.M.P.Nos.19007 and 19009 of 2022

A.Selvaraj

...Petitioner

vs.

1.The Sub Registrar,
Thondamuthur,
Coimbatore.

2.M.Mylsamy

3.M.Mohanasundaram

4.M.Eswaramoorthy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in his proceedings No.Na.Ka.49/2020 dated 26.02.2020, quash the same and direct the first respondent to incorporate the judgment made in A.S.No.1097 of 2009 against O.S.No.511/2006 on the encumbrance and Book No.1 of the property situated at bearing S.No.758/1 for an extent of 2.99 acres at Pooluvapatti Village, Thondamuthur Sub Division, Coimbatore South Taluk on the basis of the representation given



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by the petitioner dated 29.01.2020.

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For Petitioner : Mr.S.Venkatesh

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader [R1]

ORDER

This Writ Petition is filed seeking for issuance of a writ of Certiorarified Mandamus to quash the proceedings of the first respondent dated 26.02.2020 and to direct the first respondent to incorporate the judgment made in A.S.No.1097 of 2009 against O.S.No.511/2006 on the encumbrance and Book No.I of the property situated at bearing S.No.758/1 for an extent of 2.99 acres at Pooluvapatti Village, Thondamuthur Sub Division, Coimbatore South Taluk on the basis of the representation given by the petitioner dated 29.01.2020.

2. Learned Additional Government Pleader takes notice for the official respondents. Since no adverse order is being passed against the respondents 2 to 4, notice to the respondents 2 to 4 is dispensed with.

3. It is the case of the petitioner that the petitioner, his brothers and sister are the joint owners of the property at No.756 & 758/1 of an extent of



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3.14 acres situated in Pooluvapatti Village, Thondmuthur Sub Division, Coimbatore South Taluk. One of the petitioner's brother borrowed loan from the second respondent in the year and a purported sale agreement was created on 18.02.2002 and the second respondent had taken possession of the land in S.No.758/1 for an extent of 2.99 acres. Based on the said sale agreement, the second respondent filed a suit in O.S.No.511 of 2006 before the Additional District and Fast Track Court No-II, Coimbatore seeking for injunction and other reliefs, which was decreed *vide* order dated 18.05.2009 in his favour. Thereafter, the second respondent executed a settlement deed *vide* Document No.4189 of 2012 in favour of the third and fourth respondents in respect of S.No.758/1 of an extent of 2.99 acres. As against the order dated 18.05.2009, the petitioner, his brothers and sister preferred an Appeal in A.S.No.1097 of 2009, wherein this Court allowed the appeal *vide* Judgment dated 01.09.2017. Thereafter, the petitioner made a representation dated 29.01.2020 before the first respondent to incorporate the judgment dated 01.09.2017 in the encumbrance and book No.I, and the first respondent passed an order dated 26.02.2020, rejected the petitioner's claim and directed the petitioner to approach the competent Civil Court.



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Challenging the said order dated 26.02.2020, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submitted that admittedly the Sub-Registrar is the party in the suit filed by the second respondent and the appeal filed by the petitioner and others. However, prior to the judgment passed in A.S.No.1097 of 2000 dated 01.09.2017, the second respondent executed the settlement deed *vide* Document No.4189 of 2012 in favour of the third and fourth respondents which is the subject matter of the appeal, which has since been allowed in favour of the petitioner. In spite of the same, the Sub Registrar / first respondent has rejected the representation of the petitioner which is *per se* unsustainable.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondents and perused the materials placed before this Court.

6. Facts are not in dispute. Admittedly, the petitioner entered into a



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sale agreement with the second respondent on 18.02.2002, based on which the second respondent filed a suit in O.S.No.511 of 2006 before the Additional District and Fast Track Court No-II, Coimbatore and the same was decreed in his favour *vide* order dated 18.05.2009. Immediately thereafter, the second respondent executed a settlement deed in respect of the property in S.No.758/1 of an extent of 2.99 acres in favour of the third and fourth respondents. As against the order passed by the lower Court dated 18.05.2009, the petitioner and his brothers and sister preferred the Appeal in A.S.No.1097 of 2009 before this Court which was allowed in favour of the petitioner *vide* Judgment dated 01.09.2017. Based on the said Judgment, the petitioner made a representation before the first respondent seeking to incorporate the said Judgment in the encumbrance and Book No.I, which was rejected by the first respondent stating that the first respondent has no power to cancel the Settlement Deed executed by the second respondent. It is to be pointed out that as per Section 68(2) of the Registration Act, the District Registrar, has power to deal with the matter based on the Judgment passed by the Courts. Such being the case, the appeal having been allowed in favour of the petitioner, the request for



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incorporating the same in the encumbrance and Book No.1 cannot be said to be impermissible and it is within the domain of the District Registrar under Section 68(2) of the Registration Act.

7. In view of the above, this Court directs the petitioner to make appropriate application before the District Registrar in terms of Section 68(2) of the Registration Act within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the said application, the District Registrar is directed to conduct enquiry between the aggrieved persons and pass appropriate orders within a period of twelve weeks thereafter.

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

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Index : Yes/No

Speaking order : Yes/No

To

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M.DHANDAPANI, J.



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