



WEB COPY



W.P.No.26818 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.26818 of 2022

K.Dinesh Kumar

... Petitioner

VS.

1. The District Collector
Collectorate
Nagapattinam P.O & District – 611 003
- 2.The District Collector
Office of the District Registrar
Nagapattinam P.O & District
Pin: 611 001
3. The Sub-Registrar
Tirupoondi
Kilvelur Taluk
Nagapattinam District
Pin: 611 110

4. K.Vinothkumar

5. R.Kalimuthu

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd and 3rd respondents to cancel the Document No.1307/2020 dated 28th October 2020.



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For Petitioner : Mr.S.N.Balasubramanian

For Respondents : Mr.E.Sundaram

Government Advocate for R1 to R3

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus to direct respondents 2 and 3 to cancel the Document No.1307/2020 dated 28th October 2020 within the time frame that may be fixed by this Court.

2. Since no adverse order is being passed against respondents 4 and 5, notice to respondents 4 and 5 is dispensed with.

3. The case of the petitioner is that the petitioner's father / fifth respondent executed a Dhana Settlement deed dated 06.09.2019 for the property in S.No.142/12C of an extent of 0.07.0 Ares situated in Vettakaraniruppu Village, Nagapattinam District in favour of the petitioner i.e., elder son of fifth respondent. Thereafter, the fifth respondent herein again executed another settlement deed dated 28.10.2020 in respect of the aforesaid properties in favour of the fourth respondent herein i.e., younger



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son of fifth respondent. Since the third respondent registered the above said settlement deed executed by the fifth respondent in favour of the fourth respondent in respect of the very same properties, the petitioner made a complaint before the second respondent, pursuant to the said complaint, the second respondent vide proceedings dated 31.01.2022, rejected the petitioner's request with liberty to the petitioner to work out his remedy before the appropriate forum. Hence the petitioner has filed the present writ petition seeking the aforesaid relief.

4. Learned counsel appearing for the petitioner submits that as per the provisions of the Transfer of Property Act, 1882, once the property was settled in favour of the petitioner, the executor of the property cannot alienate the property in favour of third parties. However, contrary to the said Act, the executor of the property alienated the aforesaid property in favour of the third parties is unsustainable. Accordingly, he prayed for passing appropriate orders.

5. On the above contentions heard the learned counsel appearing for



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the respondents and perused the materials placed before this Court.

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6. Admittedly, the petitioner made a complaint dated 19.02.2021 before the second respondent for cancellation of settlement deed dated 28.10.2020 executed by the fifth respondent in favour of the fourth respondent, but the second respondent rejected the petitioner's request vide proceedings dated 31.01.2022 with liberty to the petitioner to work out his remedy in the manner known to law. However, without challenging the proceedings of the second respondent dated 31.01.2022, the petitioner has filed the present writ petition seeking the aforesaid relief which cannot be granted. Accordingly, the prayer sought for by the petitioner deserves to be declined.

7. Accordingly, this writ petition is dismissed granting liberty to the petitioner to work out his remedy in the manner known to law. No costs.

10.10.2022

RAP

Index : Yes/No

Speaking order : Yes/No

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M.DHANDAPANI, J.

RAP

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