



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 22067 of 2021

and

W.M.P.No.23285 of 2021

K.Baby

.... Petitioner

Vs

1. The Inspector General for Registration,
Office of the Registrar General,
Santhome High Road,
Mylapore, Chennai - 600 028.

2. The Additional Inspector General for Registration,
Office of the Registrar General,
Chennai - 600 028.

3. The Deputy Inspector General for Registration,
Chennai Zone,
Chennai - 600 032.

4. The District Registrar,
North - Chennai ,
Broadway,
Chennai - 600 108.

5. The Sub-Registrar,
Anna Nagar Registrar Office,
Thirumangalam Junction,
Anna Nagar, Chennai - 600 040.

6. C. Durairaj

7. C. Logeswari

8. U.Ugma Bai

9. S.Saravanan

10.Aravindan

.... Respondents



Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records of the impugned order issued by the third respondent in Na.Ka.No.2047/ ஆ1/2019, dated 23.10.2019, quash the same and direct the third respondent to conduct a fresh enquiry with video recording after issue of notice to both the parties and the revenue side and consequently pass necessary order in the Encumbrance Certificate reversing the entry in respect of the document dated 10.06.1966 bearing a registration number document No.2248 of 1966 at the SRO, Sembium and all the transactions subsequent to Krishnan Nadar that was made place at the time when the fraudulent transaction was registered.

For Petitioner : Mr.M.Silambarasan
For R1 to R5 : Mr.Yogesh Kannadasan
Special Government Pleader
For R6 : Mr.T.R.Rajagopalan
Senior Counsel
for Mr.S.Packiaraj

ORDER

This Writ Petition has been filed for issuance of writ of certiorarified mandamus, calling for the records of the impugned order issued by the third respondent in Na.Ka.No.2047/ ஆ1/2019, dated 23.10.2019, quash the same and direct the third respondent to conduct a fresh enquiry with video recording after issue of notice to both the parties and the revenue side and consequently pass necessary order in the Encumbrance Certificate reversing the entry in respect of the document dated 10.06.1966 bearing a registration number document No.2248 of 1966 at the SRO, Sembium and all the transactions subsequent to Krishnan Nadar that was made place at the time when the fraudulent transaction was registered.

2. Heard, Mr.M.Silambarasan, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 5 and Mr.T.R.Rajagopalan, Senior Counsel appearing for the sixth respondent.

3. The case of the petitioner is that the property, comprised in survey No.61/1A1, R.S.No.11, S.No.61/8 (part),



Block No.21 of Aminjikarai Village, Anna Nagar Taluk, bearing old No.19, new Door No.42, present Door No.24 situated at Ayyavu Naidu Street, Lakshmipuram, Shenoy Nagar, Chennai - 600 030, was purchased by his father by two separate sale deeds dated 06.02.1951 and 19.02.1951 registered vide documents Nos.242 of 1951 and 327 of 1951. His father died on 23.07.1966, leaving behind the petitioner and other legal heirs as his legal heirs to succeed his estate in respect of the subject property. During his life time, he was carrying on bricks business under the name and style of "Kumaran Brick Works" in partnership with others. The said business was conducted in a portion of the said land and the remaining portions were let out to the tenants including the sixth respondent. The business was conducted by his co-brother one Thirunavukarasu Mudaliar being in-charge. Due to illness of the petitioner's father, the co-brother, viz., Thirunavukarasu Mudaliar and other partners had taken control of the entire business of the building which was let out to the sixth respondent herein. Thereafter, the petitioner and other legal heirs came to know that other partners including Thirunavukarasu Mudaliar, had fabricated a sale deed as if petitioner's father had executed the sale deed in favour another brother one Krishnan Nadar and also found that his signature was forged during execution of the sale deed dated 10.06.1966.

4. Therefore, the petitioner lodged a complaint before the fourth respondent for fraudulent transaction in respect of the subject property by way of sale deed dated 10.06.1966 and also challenged the subsequent transactions as invalid. On receipt of the complaint, the fourth respondent issued notice to the respondents 6 to 10 and the petitioner and conducted enquiry. After giving an opportunity of hearing, the fourth respondent rejected the complaint lodged by the petitioner on the ground that the allegations made in the said complaint have to be examined by the Forensic Lab and other allegations are not made out any case to conclude that the entire transactions is fraudulent one. He further directed the petitioner to approach the Civil Court for appropriate relief.

5. Though, the petitioner filed an appeal as against the order passed by the fourth respondent before the second respondent, the petitioner also filed a suit in C.S.No.674 of 2019 as against the respondents 6 to 10 and others before this Court for declaration declaring that the sale deed dated 10.06.1966 and subsequent sale deeds executed on various dates are null and void.



6. Pending suit, the respondents 6 to 10 herein filed a petition for rejection of plaint in Application No.97 of 2020 under Order 7 Rule 11 C.P.C. The said application was allowed by this Court, by an order dated 08.05.2020, holding that the suit is hopelessly barred by limitation and there exists no cause of action for filing the suit as the cause of action projected is only an illusory one. In fact, even before filing of the writ petition, the suit filed by the petitioner was rejected by an order dated 08.05.2020 in Application No.97 of 2020 in C.S.No.674 of 2019 on the file of this Court. However, the petitioner did not even whisper about the suit filed by the petitioner in the affidavit filed in support of the writ petition.

7. Aggrieved by the order passed by the fourth respondent, the petitioner preferred an appeal before the third respondent. The third respondent dismissed the appeal and confirmed the order passed by the fourth respondent by the impugned order dated 23.10.2019. Again the petitioner preferred an appeal aggrieved by the order passed by the third respondent before the second respondent. The second respondent, by an order dated 03.01.2020, rejected the appeal for the reason that there is no provision to further appeal as against the order passed by the third respondent. However, the petitioner is directed to approach the concerned Court for appropriate relief.

8. The learned Senior Counsel appearing for the sixth respondent rightly pointed out that as directed by the fourth respondent, the petitioner filed a suit for declaration in respect of the subject property and also for declaration declaring that the sale deed dated 10.06.1966 and subsequent sale deeds are null and void. The suit itself was dismissed by this Court, by an order dated 08.05.2020, on the ground that the suit is hopelessly barred by limitation and there exists no cause of action for filing the suit as the cause of action projected is only an illusory one. However, the petitioner did not even whisper about the suit was filed by him in this writ petition, though the suit filed even before filing the present writ petition in the year 2019 itself.

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the third respondent. The writ petition is devoid of merits.



10. In the result, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

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Thirumangalam Junction,
Anna Nagar,
Chennai - 600 040.

+1cc to Mr.M.Silambarasan, Advocate Sr.3217
+2cc to Mr.S.Packiaraj, Advocate Sr.3260
+1cc to the Government Pleader Sr.3694

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