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W.P.No.29584 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29584 of 2022

K.Girija

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam,
Chennai – 600 028.

2.The Sub Registrar,
No.7, 2nd Main Road,
New Colony,
Chromepet,
Chennai – 600 044.

3.The Sub Registrar (Pallavaram)
No.7, 2nd Main Road,
New Colony,
Chromepet,
Chennai – 600 044.

4.D.Jayabalachandran
5.R.Balaji

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Mandamus directing the third respondent to cancel the
fraudulent sale deed document No.9322/2022 dated 20.08.2022



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registered at Pallavaram Sub Registrar Office, Chrompet, Chennai –
600 044.

For Petitioner : Mr.G.Hari Hara Arun Soma Shankar
For Respondents : Mr.C.Kathiravan for R1 to R3
Special Government Pleader
M/s.V.S.Usha Rani for R4
M/s.A.Mohamed Ismail for R5

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the third respondent to cancel the fraudulent sale deed document No.9322/2022 dated 20.08.2022 registered at Pallavaram Sub Registrar Office, Chrompet, Chennai – 600 044.

2.The learned counsel appearing for the petitioner submitted that the petitioner and the fourth respondent are husband and wife and their marriage was performed in the year 1989 and there was matrimonial dispute inbetween them and the fourth respondent filed O.P.No.958 of 2008 under Section 13(1)(ia),(ib) & (ii) of the Marriage Act, before the Principal Family Court, Chennai, for dissolution of marriage and the petitioner filed O.S.No.196 of 2011 under Order VII Rule – 1 of C.P.C., for permanent injunction restraining the fourth



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respondent, his agents, servants, men, representatives or anybody claiming through or from them in not interfering with the petitioner's peaceful possession and enjoyment of the properties and both the suits were clubbed together and vide common Judgment dated 26.04.2018, O.P.No.958 of 2008 was allowed with cost and their marriage was dissolved and O.S.No.196 of 2011 was decreed with cost and the petitioner was granted the relief of permanent injunction as prayed for.

3.The learned counsel appearing for the petitioner further submitted that the petitioner provided financial support to the fourth respondent for purchasing the property at Kilkattalai Village, Tambaram and hence, she is enjoying the property by letting the premises to tenants and after the petitioner moved out of the matrimonial house, the petitioner's peaceful possession was disturbed and hence she filed O.S.No.196 of 2011 and obtained the relief of permanent injunction, however, even thereafter the fourth respondent colluded with the third respondent and executed sale deed in favour of the fifth respondent, which is not sustainable one and further submitted that despite the relief of permanent injunction granted by the civil Court, alienating the property is impermissible



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4.Per contra, the learned counsel appearing for the respondents 4 and 5 submitted that only the relief of permanent injunction is granted in favour of the petitioner and it does not mean that the fourth respondent is not entitled to alienate the property. The petitioner can only enjoy the property, however, the right vests with the fourth respondent and he can alienate the property which cannot be interfered with. The learned counsel further submitted that even if the petitioner feels that the fourth respondent executed fraudulent deed, it can be canvassed only before the jurisdictional District Registrar under Section 77 – A of the Registration Act and not before this Court by filing writ petition.

5.The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that if the petitioner claim that fraudulent document was created by the fourth respondent in favour of fifth respondent, appropriate remedy available to the petitioner is before the jurisdictional District Registrar in terms of Section 77 – A of the Registration Act and without exhausting such remedy, filing writ petition before this Court is not sustainable one.



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6. Heard the arguments advanced on either side and perused the materials available on record.

7. The facts in the present case is not in dispute. The relationship between the petitioner and the fourth respondent is not in dispute. Admittedly, there was matrimonial dispute inbetween them, for which, the fourth respondent filed O.P.No.958 of 2008 for dissolution of marriage and the petitioner filed O.S.No.196 of 2011 for permanent injunction and both the suits were clubbed together and vide common Judgment dated 26.04.2018, O.P.No.958 of 2008 was allowed with cost and their marriage was dissolved and O.S.No.196 of 2011 was decreed with cost and the petitioner was granted the relief of permanent injunction as prayed for. By virtue of the relief of permanent injunction granted in favour of the petitioner, she is enjoying the property, however, the fourth respondent is alleged to have alienated the property in favour of the fifth respondent.

8. In view of the above, this Court refrains from rendering any opinion on the merits of the case, since rendering any opinion may adversely affect the interest of the petitioner as well as the private



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respondents. This Court grants liberty to the petitioner to make appropriate complaint/ application before the jurisdictional District Registrar in terms of Section 77 – A of the Registration Act. If any such complaint/ application is made by the petitioner, the concerned District Registrar shall consider the same and decide the issue inbetween the petitioner and the fourth respondent and pass appropriate orders, within a period of twelve weeks from the date of receipt of such complaint/ application.

9.With the above observations, this writ petition stands disposed of. No costs.

24.11.2022

pri
Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

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M.DHANDAPANI,J.
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