



W.P.No.29692 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

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R.Periyasamy

... Petitioner

Vs.

- 1.The District Registrar,
Office of the District Registrar (Backside to RTO office),
Nallipalayam Post,
Namakkal.
2. The Sub-Registrar,
Sendamangalam Sub Registrar's Office,
Sendamangalam Town,
Sendamangalam Taluk,
Namakkal District.
3. Anbarasi
4. S.Ganesan
5. S.Rajammal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to remove the incorrect and unwanted entries in book.1 and indexes



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appended thereto as to the property covered by Survey No.174/1 at Vazhavanthi Kombai Village which is shown in the indemnity clause as security in the sale deed 29.10.1983 has been registered as Doc.No.1514/1983 and sale deed dated 20.02.1987 has been registered as Doc.No.198/1987 and thereby rectify the unwanted and incorrect reflection of entries from the Encumbrance Certificate as to the above mentioned property covered by Survey No.174/1 at Vazhavanthi Kombai Village which happened as a result of a clerical error committed by the second respondent by considering the petitioner's representation dated 05.04.2022 and for consequential orders.

For Petitioner : M/S.M.Guruprasad
For R1 & R2 : Mr.C.Kathiravan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents 1 and 2 to remove the incorrect and unwanted entries in book.1 and indexes appended thereto as to the property covered by Survey No.174/1 at Vazhavanthi Kombai Village which is shown in the indemnity clause as security in the sale deed 29.10.1983 has been registered as Doc.No.1514/1983 and sale deed dated 20.02.1987 has been registered as Doc.No.198/1987 and thereby rectify



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the unwanted and incorrect reflection of entries from the Encumbrance Certificate as to the above mentioned property covered by Survey No.174/1 at Vazhavanthi Kombai Village which happened as a result of a clerical error committed by the second respondent by considering the petitioner's representation dated 05.04.2022 and for consequential orders.

2. Since no adverse order is being passed against the private respondents, notice to the private respondents is dispensed with.

3. The case of the petitioner is that, the petitioner is the absolute owner and possessor of the aforesaid property, measuring an extent of about 2 acres, vide old Patta No.349 and new Patta No.627. It is stated that the petitioner's father, namely Late. Ramasamy Gounder had purchased the aforesaid properties from one Noor Ahmed, vide Sale Deed, dated 10.07.1959 and registered as Doc.No.1671/1959 and his father also owned an other property in S.Nos.222/1 & 222/2, measuring an extent of about 4.18 acres, vide sale deed dated 10.07.1954 which has been registered as Doc.No.967/1954. Further, the petitioner's father had sold the properties in S.Nos.222/1 & 222/2 to the mother of the fourth respondent, namely



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Marayammal and the third respondent, vide sale deed, dated 29.10.1983 and has been registered as Doc.No.1514/1983. Thereafter, the sale deed, dated 29.10.1983 in favour of third respondent and the mother of the fourth respondent was entered into by purchase on 10.07.1959, vide Doc.No.1671/1959 by the petitioner's father, which is under the possession of the petitioner which has been shown as security in the indemnity clause, to ensure that in case of any defect as to the title of the vendor or any other encumbrance, the aforesaid property can be charged. While so, on 20.02.1987, the mother of the fourth respondent and the third respondent have sold the properties in favour of the fifth respondent, vide Doc.No.198/1987 by mechanically reproducing the recitals made out in the indemnity clause of sale deed, dated 29.10.1983. The grievance of the petitioner is that, while making the entries about the registration of the aforesaid sale deeds into Book.1 and the indexes appended thereto, had mistakenly entered the details about his property covered by Survey No.174/1 at Vazhavanthi Kombai Village, which is shown in the indemnity clause only as a security in the said sale deeds along with the other properties involved in that sale, and the petitioner's property is reflected as encumbrances in the Encumbrance Certificate. Therefore, the petitioner



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made representations dated 05.04.2022 and 26.09.2022 before the respondents 1 and 2, seeking to rectify the incorrect entries with regard to S.No.174/1, which was reflected in the Encumbrance Certificate on the file of first respondent. Since the said representations were not considered by the respondents 1 and 2, the petitioner had filed the present Writ Petition.

4. The learned counsel for the petitioner submitted that, it would suffice, if this Court issues a direction to the first and second respondents to consider the petitioner's representations dated 05.04.2022 and 26.09.2022 and pass orders on the same within a stipulated time that may be fixed by this Court.

5. The learned Special Government Pleader appearing for the respondents 1 and 2 submitted that, the issue arises in this Writ Petition is between the petitioner and the third respondent, and therefore the petitioner has to work out his remedy before the Competent Civil Court, and instead of doing so, the petitioner made representations before the second respondent/Sub Registrar for rectification of entries which is not



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sustainable. Further, the second respondent has no power to rectify the entries in the Encumbrance Certificate. Accordingly, he prayed for dismissal of the Writ Petition.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1 and 2 and perused the materials available on record.

7. Admittedly, the petitioner's father alienated the properties in S.Nos.222/1 & 222/2 to the mother of the fourth respondent and the third respondent, vide sale deed, dated 29.10.1983 which has been registered as Doc.No.1514/1983 with indemnity clause mentioned S.No.174/1 as security along with other survey numbers, and subsequently, the fourth respondent had executed a sale deed, vide Doc.No.198/1987 in favour of the fifth respondent, which resulted in petitioner representations before the second respondent/Sub-Registrar for removal of S.No.174/1 in the Encumbrance Certificate. However, it is to be pointed out that the second respondent has no power to made alterations in the Encumbrance Certificate, and if at all the petitioner has any grievances, the petitioner



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has to approach the competent Civil Court for appropriate remedy and in absence of any provisions, issuing direction to the second respondent to consider the representations of the petitioner is impermissible. Hence, the prayer sought for in this Writ Petition cannot be granted.

8. Accordingly, the Writ Petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. No costs.

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Speaking Order : Yes/ No

Internet: Yes/ No

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To

1. The District Registrar,
Office of the District Registration Department,
Government of Puducherry,
Saram, Puducherry 605 013.

2. The Sub-Registrar,
Office of the District Registration Department,
Government of Puducherry,
Saram, Puducherry 605 013.



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M.DHANDAPANI, J.
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