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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE Mr. JUSTICE **M.DHANDAPANI**

W.P.No.922 of 2018
and
W.M.P.No.1121 of 2018

R.Meena ... Petitioner

Versus

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai – 600 004.

2. The District Registrar,
Registration District of South Chennai,
Saidapet, Chennai – 600 015.

3. The Sub-Registrar,
Guduvancherry,
Kancheepuram District.

4. G.Parameawari
5. R.Kamaraj
6. Mallika
7. Uma Sankari @ Sathiya Kavitha ... Respondents

(R5 to R7 are impleaded as parties by order of this Court in W.M.P. No.12214 of 2018 in W.P. No.922 of 2018)

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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 and 2 herein to conduct enquiry and take criminal action against the person involved in registration of sale deed dated 18.02.2005 registered as a Documents No.2124 of 2005 on the file of the third respondent consequently directing the respondent to cancel the sale deed dated 18.2.2005 registered as Documents No.2124 of 2005.

For Petitioner : Mr. Venkataswamy Babu

For Respondents 1-3 : Mr.Yogesh Kannadasan
Special Government Pleader

4 : Ms. Kalpana
for Mr. K.Ramakrishna Reddy

O R D E R

This Writ Petition has been filed for the issuance of a writ of mandamus to direct the respondents 1 and 2 herein to conduct enquiry and take criminal action against the person involved in registration of sale deed dated 18.02.2005 registered as a Documents No.2124 of 2005 on the file of the third respondent and to consequently direct the respondents to cancel the sale deed dated 18.2.2005 registered as Documents No.2124 of 2005.

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2. The case of the petitioner is that his father late Rajapandian @ Sathiyaraja Pandian purchased 93 cents of land situated at No.12, Oonamancherry Village, Kattangolathur Panchayat Union, Kancheepuram District, comprised in S.No.463/2A on 04.04.1984 from one Sunny George by a registered sale deed bearing Doc.No.2160/1984. It is stated that the petitioner's father died on 23.06.1996 leaving behind the petitioner's brother and sister as legal heirs. It is stated that the aforesaid property were partitioned among the legal heirs by a partition deed dated 09.05.1997 and the same was registered as documents No.1380/04 on the file of third respondent herein. It is stated that after the death of the petitioner's mother, the petitioner had applied for encumbrance certificate from the third respondent and to his shock and surprise the said property was sold to one G.Parameswari, the fourth respondent herein. Thereafter, the petitioner had applied for the certified copy of the sale deed dated 18.02.2005 registered in favour of the fourth respondent. It is stated that on receipt of the copy of sale deed dated 18.02.2005, the petitioner found that without his signature, the third respondent had registered the document and assigned document No.2124 of 2005 and issued the same to the vendor. The grievance of the

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petitioner is that the third respondent ought to have refused to register the document as per Section 20 of the Registration Act, 1908. However, the third respondent had registered the document without the signature of the petitioner for the reasons best known to him. It is stated that the petitioner had sent a representation dated 14.09.2017 to the first and second respondents to initiate the criminal proceedings. Since the representation of the petitioner has not been considered, the petitioner has filed this present Writ Petition.

3. The learned counsel for the petitioner submits that admittedly the petitioner is the co-owner of the aforesaid property and without his knowledge a sale deed was presented by incorporating the petitioner's name. He further submitted that without the signature of the petitioner, the entire property was alienated by the fourth respondent which is not a sustainable one. He further submitted that intentionally the third respondent had registered the document in the name of fourth respondent and the person who transferred the property in favour of fourth respondent including the fourth respondent is liable to face the criminal action under Section 81 & 82

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of the Registration Act.

4. The learned counsel for the fourth respondent submitted that it is purely a civil dispute between the family members. She further submitted the petitioner had purchased the disputed property from his brothers and sister which is legally sustainable. If at all the petitioner has any grievance, he has to approach the civil court in the manner known to law.

5. The facts in the present case is not in dispute. The petitioner claims a share in the property owned by his father. The petitioner's mother and father passed away in the year 1994 and 1997 respectively. The petitioner claims that there was a partition between the family members in the year 1997 however, the same was registered only in the year 2004. Subsequently, it is alleged that the petitioner's brother and sister, without the knowledge of the petitioner, alienated the property in favour of the fourth respondent and for which the petitioner had made a representation before first and second respondent for taking criminal action against the petitioner's brother and sister and the fourth respondent and the same is pending.

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6. Though the petitioner had initially filed this writ petition without adding his brother and sister, subsequently he filed an impleading petition in W.M.P. No.12214 of 2018 in W.P. No.922 of 2018 to implead his brother and sisters and parties in this case. However in overall view, it is a dispute between the petitioner and his family members. Since it is a civil dispute, it has to be ventilated only before the competent civil Court and not before the first and second respondents. Hence, the prayer sought by the petitioner in this Writ Petition cannot be granted. However, liberty is granted to the petitioner to institute appropriate suit against the other legal heirs and the fourth respondent in the manner known to law.

7. In view of the above, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2022

Index : Yes / No
Speaking Order/ Non-speaking Order
bkn

To

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