



W.P.(MD)No.16588 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.16588 of 2013

and

M.P.(MD)Nos.1 and 2 of 2013

Susi Thamizhpandian

... Petitioner

Vs.

1.The Deputy Registrar for Registration,
Office of Deputy Registrar,
Othakadai,
Madurai.

2.The District Registrar (Admn.),
Periyakulam,
Theni District.

3.The Joint Sub Registrar-II,
Periyakulam Sub Registration,
Theni District.

4.The Tahsildar,
Periyakulam Taluk,
Theni District.

5.Karuppiah

6.Mahaselvan

7.Kalimuthu

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, directing the respondents 1 to 3 herein to conduct enquiry under the Registration Act and initiate criminal prosecution against the respondents 5 to 7 herein under Sections 81, 82 & 83 of the Registration Act and consequently direct the respondents 1 to 3 herein to cancel the fraudulent sale deeds at the instance of the respondents 5 to 7 herein in respect of the petitioner's agricultural patta land measuring 2 acres 25 cents in S.Nos.442/1, 442/2, 443/1 T.Vadipatti, Devathanapatti Village, Periyakulam Taluk, Theni District as house sites to any third parties in accordance with the provisions Tamil Nadu Registration Act, within a reasonable time.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.K.Selva Ganesan,
Additional Government Pleader
for R1 to R4
No appearance for R5 to R7

ORDER

The present writ petition has been filed seeking for a Writ of Mandamus, directing the respondents No.1 to 3 herein to conduct an enquiry under Sections 81 to 83 of the Registration Act as against the



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Respondents No.5 to 7 herein and cancelled the fraudulent sale deeds.

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2. According the learned Counsel for the petitioner, he had filed a suit for specific performance in O.S.No.6 of 2012 on the file of the District Munsif Court, Periyakulam, as against the respondents No. 5 to 7 herein. The respondents No.5 to 7 herein were arrayed as defendants No.1 to 3 in the said suit. The defendants had remained ex-parte and an ex-parte decree has been passed on 16.02.2012. Thereafter, since the defendants have not executed the sale deed, the Court has executed a registered sale deed in favour of the writ petitioner on 11.01.2013.

3. According to the learned Counsel for the petitioner, thereafter, the respondents No. 5 to 7 herein on the basis of the power deed, which is said to have been registered on 05.05.2008, have executed a sale deed on 20.02.2014 in favour of the third parties. According to the learned Counsel for the petitioner, when a sale deed has been registered at the instance of the Civil Court, thereafter the respondents No.5 to 7 would not be entitled to execute any sale deed, through the power deed



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executed prior to the filing of the suit. Hence, he contended that it is a fraudulent transaction attracting enquiry under Section 81 and 82 of the Registration Act 1908. Though the respondents No.5 to 7 have been served, they have neither appeared in person nor engaged a Counsel.

4. In view of the above said undisputed facts, this Court is inclined to pass the following orders:

(i)The second respondent herein is directed to initiate proceedings under Section 81 and 82 of the Registration Act as against the respondents No.5 to 7 and after giving due opportunity to the petitioner and the respondents No.5 to 7, pass orders on merits and in accordance to law.

(ii)In case, if the second respondent arrives at a finding that the respondents No.5 to 7 have committed an offence as contemplated under Section 81 or 82, he shall initiate prosecution under Section 83 of the Registration Act.

5. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order.



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6. With the above said observations, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.07.2022

Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR ,J.

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Order made in
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