



W.P(MD)No.6090 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6090 of 2012

and

M.P(MD)Nos.2 of 2012 & 1 of 2013

Narasiman

Represented through his Power Agent,

K.Kunthavai

... Petitioner

*(Cause title amended vide Court order, dated 04.09.2017
in W.M.P(MD)No.12504 of 2017)*

Vs.

1.The District Registrar,
Kumbakonam Registration District,
Kumbakonam, Tanjore District.

2.The Sub Registrar,
Swamymalai Sub-Registrar Office,
Kumbakonam, Tanjore District.

3.V.Syampraksam

4.Meenachi

... Respondents

5.Mangaiyarkarasi

... Proposed Respondent

*(Respondent No.5 is impleaded vide Court order, dated 27.04.2021 in
W.M.P(MD)No.23014 of 2018 in W.P(MD)No.6090 of 2012)*



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned cancellation order passed in No.3080/Aa/2011, dated 26.03.2012 by the first respondent and quash the same is illegal.

For Petitioner : M/s.G.Prabhurajadurai
For R-1 & R-2 : M/s.K.S.Selvaganesan
Additional Government Pleader
For R-3 & R-5 : Mr.ARL.Sundaresan
Senior Counsel
for M/s.AL.Gandhimathi
For R-4 : No appearance

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, under which, certain documents have been declared to be null and void.

2. According to the learned Counsel for the petitioner, he had purchased an extent of 3.23.5 hectares from one Meenachi and her son Arun Kumar, vide Document No.1665/2011 on 26.09.2009. He received a notice, dated 26.03.2012 from the first respondent, under which, the sale deed of the writ petitioner was cancelled. In the said order, the



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parent document in favour of his vendor, namely, Mrs.Meenachi executed by the Additional Subordinate Court, Kumbakonam, vide Document No.1904/2008 was also cancelled. According to the learned Counsel for the petitioner, he has purchased the property in the year 2009 and revenue records were mutated in his favour. Without issuing any notice to him, the present impugned order has been passed, not only cancelling his sale deed but also the parent document. Hence, he prayed for allowing the writ petition.

3. Per contra, the learned Senior Counsel appearing for the third and fifth respondents had contended that the original owners of the property are one G.S.Durairajan and D.Lalitha. They had executed a registered sale deed in favour of the third and fifth respondents herein in Document Nos.439 and 440 of 2007 on 28.03.2007. The fourth respondent herein claiming to be an agreement holder from the said D.Lalitha and Lalitha had filed O.S.No.13 of 2008 for specific performance. The said suit was decreed exparte on 28.04.2008. Based upon the exparte decree, the civil Court has executed a sale deed in favour of the fourth respondent herein on 30.09.2008. Based upon the



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said sale deed executed by the Court, the fourth respondent has in turn executed a sale deed in favour of the writ petitioner on 24.03.2009.

4. The learned Senior Counsel further contended that the third respondent herein had filed O.S.No.32 of 2009 as against the original owners Durairajan and Lalitha and Meenachi on the file of the Additional Subordinate Court, Kumbakonam and the same was dismissed for default on 25.11.2013.

5. The learned Senior Counsel further contended that the sale deed in favour of the third and fifth respondents is dated 28.03.2007 and it is anterior in point of time. However, the sale deed in favour of the fourth respondent said to have been executed by the Court is dated 30.09.2008. Hence, the first respondent herein had arrived at a finding that the sale deed, dated 30.09.2008, executed by the civil Court in favour of the fourth respondent and the consequential sale deed executed by the fourth respondent in favour of the writ petitioner are null and void. The first respondent has further found that the third and fifth respondents alone are the real owners of the property.



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6. The learned Senior Counsel further contended that the sale deeds in favour of the respondents 3 and 5 being anterior in point of time, the fourth respondent had created a sale agreement and based upon the sale agreement is said to have succeeded in a suit for specific performance by obtaining an exparte decree. Hence, the fourth respondent will not have any title to the property. The learned Senior Counsel further contended that, incase, if the order is set aside and remitted back to the first respondent herein, that will only restore the illegal decree granted in favour of the fourth respondent herein. Hence, he requested for dismissal of the writ petition.

7. I have carefully considered the submissions made on either side.

8. There is no dispute that one Durairajan and Lalitha are the original owners of the property. According to the fourth respondent, Meenachi has succeeded in a suit for specific performance as against the original owners and the sale deed has been executed in her favour by the civil Court on 30.09.2008. Based upon the said sale deed, the said



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Meenachi has executed a sale deed in favour of the writ petitioner. Per contra, the third and fifth respondents claim that the original owners, namely, Durairajan and Lalitha have executed a registered sale deed in their favour on 28.03.2007 itself and therefore their title deed is anterior to that of the fourth respondent herein.

9. The petitioner has purchased the property in the year 2009 and revenue records have also been mutated in his name. The present impugned order has been passed by the first respondent herein, without sending any notice to the writ petitioner. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein for fresh consideration, after issuing notice to the writ petitioner and respondents 3 to 6 herein. The parties are at liberty to raise all the issues that are raised in the present writ petition. The enquiry shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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10. With the above said observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

22.09.2022

Index : Yes / No
Internet : Yes / No
btr

To

- 1.The District Registrar,
Kumbakonam Registration District,
Kumbakonam, Tanjore District.
- 2.The Sub Registrar,
Swamymalai Sub-Registrar Office,
Kumbakonam, Tanjore District.



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.6090 of 2012

22.09.2022