



W.P.(MD).No.17972 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 12.08.2022

ORDER PRONOUNDED ON : 17 .08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17972 of 2013

and

MP(MD).No. 1 of 2013

M.Anthony Raj

....Petitioner

Vs

1.The Inspector General of Registration
The Department of Registration
Santhom Chennai

2.The District Registrar
Tenkasi Registration District
Tenkasi
Tirunelveli District

3.The Sub Registrar
Alankulam Registrar Office
Alankulam, Tirunelveli District

4.Ravindran

.....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to impound the sale instrument dated 03.01.2013 registered in Document No.41 of 2013 on the file of the third respondent based on the representation dated 15.10.2013 of the petitioner.



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For Petitioner	: Mr.K.Bharathi For Mr.S.Chellapandian
For R1 to R3	: Mr.K.S.Selvaganesan Additional Government Pleader
For R4	: Mr.P.Thiyagarajan

ORDER

The present writ petition has been filed seeking a writ of mandamus directing the respondents 1 to 3 to impound a sale deed dated 30.01.2013 in Document No.41 of 2013 on the file of the third respondent based on the representation of the petitioner dated 15.10.2013.

2.According to the petitioner, he is the owner of the property in dispute. He had borrowed a sum of Rs.50,000/- from the fourth respondent in the month of February 2012 and he had borrowed a further sum of Rs. 49,000/- and Rs.50,000/- on two different dates. Since he could not succeed in extending his business, he had closed down the same and wanted to repay the amount.

3.According to the petitioner since he could not arrange for repayment, he was forcibly taken to the third respondent office and directed to sign in a sale instrument as a collateral to the loan amount for a tune of Rs.1,50,000/-.



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He had further contended that though he did not fully agree for the same, half-heartedly he signed the said document. On enquiry, the fourth respondent had informed that the present instrument was a mortgage deed and it was executed as a security for the loan amount and if I repay the amount, the fourth respondent would execute a re-conveyance deed.

4.The petitioner had further contended that in the month of September 2013, when he approached the fourth respondent with the loan amount with interest, seeking re-conveyance, he had refused to accept the repayment and contended that he had already sold the property to him by way of sale deed dated 03.01.2013. On verification, he came to know that the document executed on 03.01.2013 is in fact a sale deed and not a mortgage deed as projected by the fourth respondent herein. The petitioner had further contended that there is a building with electricity connection in the said property and value of the property is around Rs.15,00,000/-. The sale deed does not reflect the building and the electricity service connection. Hence, he has given a representation to the third respondent herein on 15.10.2013 to cancel the said document. Since the said representation was not considered, the present writ petition has been filed.

5.The learned counsel for the petitioner had contended that the document dated 03.01.2013 was executed by the writ petitioner in favour of



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the fourth respondent herein under the wrong impression that it is only a mortgage deed and not a sale deed. The fourth respondent herein had suppressed the existence of the building and had paid a lesser stamp duty and hence, the document has to be cancelled by the third respondent herein.

6.Per contra, the learned counsel for the respondents had contended that the petitioner had voluntarily executed a sale deed in favour of the fourth respondent. The sale deed was executed in the year 2013 and so far the petitioner has not chosen to challenge the same before the competent Civil Court. He had further contended that the petitioner has not disputed the execution of document, but had only contended that it was executed under a wrong impression that it is a mortgage deed. That apart, the authorities under the Registration Act are not empowered to cancel the document after it has been registered, especially, when the writ petitioner has not disputed the execution of the document. He had further contended that, in case, if the document has been undervalued, it is for the authorities to initiate proceedings for recovery of the deficit stamp duty. Therefore, a document cannot be cancelled on the said ground. Hence, he prayed for dismissal of the writ petition.

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



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8. Admittedly, the petitioner is the owner of the disputed property who had executed a sale deed in favour of the fourth respondent herein on 03.01.2013 and it was registered before the third respondent herein. The main contention of the writ petitioner is that under a wrong impression that it is a mortgage deed, he had executed a sale deed. He had further contended that the document has been undervalued in view of the suppression of a building in the said property. On the said ground, the petitioner has sought for cancellation of the sale deed. Even assuming that the allegation of the petitioner that he had executed a document under a wrong impression that it is a mortgage deed is correct, the same has to be adjudicated only before the competent Court. Once a document has been registered and released, the authorities under the Registration Act will not have any power to cancel the said document.

9. The next allegation regarding undervaluation of the document is concerned, it is always left to the authorities to decide about the undervaluation of the document. In case, if the authorities under Registration Act finds that the document has been undervalued or though properly valued, the adequate stamp duty has not been paid, it is for them to initiate action under the relevant provision of the Registration Act. The proceedings of the



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authorities can be only for recovery of the stamp duty and they have no power to cancel the document on the ground of undervaluation.

10.In view of the above said discussions, the respondent authorities do not have any power to cancel the sale deed on the ground of undervaluation or on the ground that it was executed under a wrong impression. Hence, the question of issue a mandamus to the authorities to cancel the said document does not arise. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes/No
Index : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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