



W.P.(MD).No.13044 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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ORDER RESERVED ON : 26.07.2022

ORDER PRONOUNCED ON : 08 .09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.13044 of 2022

M.Pasupathi

....Petitioner

-Vs-

1.The District Registrar
Office of the District Registrar
Palayamkottai
Tirunelveli District

2.The Sub Registrar
Office of the Sub Registrar
Kayathar
Tirunelveli District

3. N.Rajagopal @ Muppudathi

4.Sarjan Realities Private Limited
No.285/10, Koregaon Park
Behind Singh Motors
Near Gulmohar Jupiter
Pune 411 001

5.Raju Spinning Mills Private Limited
1110B, Cotton Market
Post Box Number 102
Rajapalayam 626 117



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6.Mark Data Power & Energy Limited
No.27, Nagarjuna Hills
Punjagutta
Hyderabad 500 082

7.Muthoot Finance Corporation Limited
Muthoot Centre
Punnen Road
Trivandraum 695 034

8.Sun Street Solar Private Limited
No.401, 4th Floor
Shree Guru Harikrishna Bhavan
Charat Singh Colony
A.K.Road, Andheri,East
Mumbai, Maharashtra 400 093

9.CSE Deccan Solar Private Limited
No.401, 4th Floor
Shree Guru Harikrishna Bhavan
Charat Singh Colony, A.K.Road
Andheri, East, Mumbai
Maharashtra 400 093

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to expedite the enquiry to cancel in respect of documents executed in favour of the respondents 4 to 9 on the file of the second respondent in Document No. 558/2004, 804/2004, 861/2004, 881/2004, 3807/2021 and 3882/2021 by considering the petitioner's representation dated 25.05.2022 within time frame as fixed by this Court.

For Petitioner	: Mr.A.Rabinson
For R1 & R2	: Mr.K.S.Selvaganesan Additional Government Pleader
For R8 & R9	: Mr.H.Lakshmi Shanker



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ORDER

The present writ petition has been filed seeking a mandamus directing the respondents 1 and 2 to conduct an enquiry based upon the representation given by the petitioner on 25.05.2022 and to cancel the documents executed by the third respondent in favour of the respondents 4 to 9 herein.

2.According to the petitioner, the property in dispute in Re.Survey No. 231 having an extent of 36.50.0 Hectares was originally owned by his grandmother Thangam@ Sankaravadivammal. The third respondent herein who is also one of the grandsons along with his brother had got executed four settlement deeds in his favour creating an impression that they are only power of attorneys. After coming to know of this, the said Thangam@ Sankaravadivammal had cancelled all the settlement deeds.

3.According to the writ petitioner, the settlement deed in dispute is Document No.1824 of 1969 dated 17.12.1969 said to have been executed by his grandmother in favour of the third respondent herein. The said document was cancelled in Doc.No.1031 of 1970 dated 24.07.1970. Thereafter, the third respondent has chosen to execute a sale deed in favour of the fourth respondent on 26.05.2004. Thereafter, the said fourth respondent had



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executed a document in favour of the respondents 5 to 9 on various dates.

Since the sale deeds executed by the third respondent in favour of the fourth respondent on 26.05.2004 is based upon a cancelled settlement deed, he has sought for an enquiry to be conducted by the Registrar so as to cancel the said sale deeds. The petitioner and his family members have given a representation to the said effect on 25.05.2022. Hence, the present writ petition seeking mandamus on the said representation.

4.Per contra, the learned counsel for the respondents had contended that the third respondent is also one of the grandsons of the said Thangam@ Sankaravadivammal. She had voluntarily executed four settlement deeds in favour of the writ petitioner and his brother. Two documents were executed on 17.12.1969 and two other documents on 19.12.1969. The said documents were cancelled on 24.07.1970. Challenging the cancellation of Document No. 3251 of 1969 dated 19.12.1969, the third respondent had filed O.S.No.727 of 1970 for the relief of declaration of title and permanent injunction. In the said suit, the settlor namely Thangam@ Sankaravadivammal was also one of the party. The said suit was dismissed. However, in A.S.No.29 of 1975 on the file of the District Court, Tirunelveli, the suit was decreed as prayed for. The said Thangam@ Sankaravadivammal did not file a second appeal, but only the first defendant had filed a second appeal in S.A.No.2160 of 1976 before the



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High Court, Madras. The second appeal was dismissed on 13.11.1979.

Though only one of the settlement deeds was in dispute in the said suit, the defendants have placed all the settlement deeds and cancellation deeds before the Court by way of marking them and contended that they were executed on the misrepresentation that these documents were only power of attorneys. The said plea was rejected by the First Appellate Court and the title of the third respondent has also been confirmed.

5.The learned counsel for the third respondent had contended that the third respondent has sold away the properties in favour of the fourth respondent in the year 2004 and wind mill have been erected in the year 2004 itself. The documents filed by way of additional typed set of papers reveals that the Tamil Nadu Electricity Board by its proceedings in the year 2004, has issued the commissioning certificate for the wind mill started by the respondents 5 to 9. Hence, according to the counsel for the third respondent, the petitioner is very well aware that the wind mills are in possession of the property right from the year 2004. Hence, at this length of time, the present writ petition has been filed only to get over the period of limitation that is likely to stare at them when they file a civil suit. Hence, he prayed for dismissal of the writ petition.



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6.I have considered the submissions made on either side and perused the materials available on record.

7.The petitioner has prayed for an enquiry to be conducted by the officials of the registration department and to cancel the sale deed said to have been executed by the third respondent in favour of the fourth respondent and consequential sale deeds. It was pointed out to the learned counsel for the petitioner that the circular No.67 which empowers the register has been recalled and as on today, the authorities under the registration department do not have any power to cancel the document.

8.At this juncture, the learned counsel for the petitioner had contended that he would like to rely Section 82(a) of the Registration Act, 1908 to contend that intentionally false statements have been made in the sale deeds executed by the third respondent warranting the penalty under Section 82 of the Act.

9.Consideration of the sequence of facts recorded above will clearly indicate that there is a serious title dispute between the petitioner and the third respondent herein. A perusal of Document No.1824 of 1969 clearly reveals that the settlor has specifically recited that she has no power to cancel



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the said settlement. However, the settlor has chosen to unilaterally cancel the said document on 24.07.1970. Hence, it has to be decided whether the said unilateral cancel is valid or not. It is also to be considered whether the third respondent can ignore the said unilateral cancellation as a void document and proceed to alienate the properties in favour of the third parties or not. This issue can be decided only by a competent civil Court and not by the statutory authorities under the Registration Act, 1908.

10. In view of the above, I am of the opinion that the dispute that has been raised by the writ petitioner does not fall within Section 82 of the Registration Act, 1908. Hence, the writ petition is devoid of any merits and the same is dismissed. However, the writ petitioner is at liberty to approach the competent Civil Court, if he is so advised. No costs.

08.09.2022

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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