



W.P(MD)No.7837 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.7837 of 2015

R.Haridass

... Petitioner

Vs.

The Sub Registrar,
Office of the Sub Registrar,
Rameswaram,
Ramanathapuram District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation, dated 14.03.2015, requesting the respondent to cancel the sale deeds, dated 13.05.1994, under Document No.631/94 measuring an extent of 3 cents out of 15 cents and sale deed, dated 29.11.1999, under Document No.1101/99 measuring an extent of 8 1/2 cents out of 15 cents in Survey No. 1046/25-A situated at Pamban Village, Ramanathapuram District.

For Petitioner : M/s.PT.S.Narendra Vasan

For Respondent : M/s.S.R.A.Ramachandran
Additional Government Pleader



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ORDER

The present Writ Petition has been filed seeking a Writ of Mandamus, directing the respondent to consider his representation and cancel the sale deeds, dated 13.05.1994 and 29.11.1999.

2. According to the learned Counsel for the petitioner, himself and his wife are the original owners of the property, who have executed a registered settlement deed in favour of their minor children with a rider that they should not create any encumbrance during the lifetime of the parents. In violation of the said condition, the children have alienated the property in favour of third parties. One of the purchasers have filed O.S.No.15 of 2004 as against another purchaser and the writ petitioner's daughter herein for the relief of declaration, injunction and partition. The said suit was dismissed by the trial Court. Both the purchasers have filed A.S.No.27 of 2007 and Cross Appeal in A.S.No.72 of 2007 before the Subordinate Court, Ramanathapuram. Both the appeal and the cross appeal were dismissed by the first Appellate Court on 29.10.2007. Hence, according to the learned Counsel for the petitioner, the sale deeds



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having been held to be not valid by the civil Court, the respondent ought to be directed to cancel those sale deeds. Hence, the present writ petition.

3. Unless the sale deeds are challenged as contemplated under Section 31 of the Specific Relief Act, the respondent cannot be directed to cancel the said document and create an encumbrance with regard to the cancellation of the said document.

4. However, the learned Counsel appearing for the petitioner places an alternative prayer that he may be permitted to register the decree in O.S.No.15 of 2004 on the file of the District Munsif cum Judicial Magistrate, Rameswaram. There cannot be any impediment for registering the said decree.

5. In view of the above said facts, the respondent is directed to register the decree to be presented by the writ petitioner in relation to O.S.No.15 of 2004, dated 12.12.2006, on the file of the District Munsif cum Judicial Magistrate, Rameswaram, without any reference to the period of limitation on payment of necessary charges.



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6. With the above said observations, the writ petition stands disposed of. There shall be no order as to costs.

17.10.2022

Index : Yes / No
Internet : Yes / No
btr

To

The Sub Registrar,
Office of the Sub Registrar,
Rameswaram,
Ramanathapuram District.



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R.VIJAYAKUMAR, J.

btr

Order made in
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17.10.2022