



Writ Petition No.3153 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3153 of 2021
and WMP.Nos.21014 of 2022 and 2586 of 2023

A.Lakshmi

... Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai – 4.
2. The District Registrar,
Office of the District Registrar,
Villupuram District.
3. The Joint Registrar No.I,
Office of Sub-Registrar,
Office of the District Collector Campus,
Villupuram Town and District.
4. The Joint Registrar No.II,
Office of Sub-Registrar,
Thiru.Vi.Ka.Street,
Villupuram Town and District.
5. Mr.Shanmuga Gounder
6. Mr.Arumuga Gounder
7. Mr.Murugan Gounder

... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 4 to take action on the petitioner's representation, submitted for deletion of entries made in encumbrance certificates in respect of Salamedu Village, Villupuram Taluk and District, comprised in S.No.276/2, (New S.No.276/2A to 2Z), for an extent of 85 cents and also at Vazhuthareddy Village, Villupuram Taluk and District, comprised in S.No.39/0 for an extent of 13 cents.

For Petitioner : Mr.A.Ramalingam

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader [R1
to R4]

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents 1 to 4 to take action on the petitioner's representation, submitted for deletion of entries made in encumbrance certificates in respect of Salamedu Village, Villupuram Taluk and District, comprised in S.No.276/2, (New S.No.276/2A to 2Z), for an extent of 85 cents and also at Vazhuthareddy Village, Villupuram Taluk and District, comprised in S.No.39/0 for an extent of 13 cents.



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2. The petitioner in respect of the property situated at Salamedu Village, Villupuram Taluk and District, has given a representation on 28.12.2020 to the respondents to remove the encumbrance already been made on the file of the third and fourth respondents, where number of transactions had been registered according to the petitioner fraudulently by the private respondents.

3. Therefore to consider the said representation and to pass necessary orders, the petitioner has moved the present writ petition.

4. Heard Mr.A.Ramalingam, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 4.

5. In view of the order going to be passed in this writ petition, notice to the private respondents is hereby dispensed with.

6. Learned Special Government Pleader appearing for the official respondents would submit that, in the representation dated 28.12.2020



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made by the petitioner seeking rectification in the encumbrance certificate that cannot be undertaken by the Registering Authority unless the documents already been registered by various sale deeds in respect of the property in question, which had been taken place on number of dates by various documents are set aside or cancelled in the manner known to law, hence the prayer sought for by the petitioner in his representation dated 28.12.2020 alone cannot be considered and granted by the official respondents.

7. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Special Government Pleader appearing for the official respondents that, since there has been so many documents registered and assuming that, if these documents are fraudulent or bogus documents, an alternative remedy to the petitioner is either to make an application to the District Registrar to get it canceled by conducting an enquiry within the meaning of Section



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77-A of the Registration Act, 1908 [in short, 'the Act'], which has now come into effect from 16.08.2022 or the petitioner should have approached the competent Civil Court to get a declaration about these documents. However, now the Act has amended, by virtue of that, since Section 77-A of the Act has been inserted in the Registration Act, which empowers the District Registrar to enquire the matter and to take a decision to declare the documents in question as fraudulent documents and accordingly, the same can be cancelled by giving direction to the Registering Authority, hence, this Court feels that the said representation given by the petitioner dated 28.12.2020 can be directed to be considered by the second respondent within the meaning of Section 77-A of the Act after giving an opportunity of being heard to both sides and in that case, that would meet the ends of justice.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

That there shall be a direction to the second respondent to consider the representation of the petitioner dated 28.12.2020 by treating it as a complaint or representation



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within the meaning of Section 77-A of the Act and accordingly, by conducting an enquiry after giving an opportunity of being heard to both the petitioner as well as the private respondents or the legal heirs, necessary final orders shall be passed by the second respondent within a period of six (6) weeks from the date of receipt of a copy of this order.

With these directions, these writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

16.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
mp



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R. SURESH KUMAR, J.
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