



W.P.No.6722 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6722 of 2023 and
W.M.P. No.6781 of 2023

R.Mohala

...Petitioner

Vs

1.Inspector General of Registration,
100, Santhome Road,
Pattinampakkam,
Chennai – 600 018.

2.Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Cuddalore.

3.District Registrar (Admin),
Office of the District Registrar,
Cuddalore.

4.Sub Registrar,
Office of the Sub Registrar,
Panruti,
Cuddalore.

5.M.Siva

6.C.Rani

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for all the records of the second respondent culminating in the order dated 26.12.2022, bearing Na.Ka.No.1963/U/2022 passed by the second respondent and quash the same and consequently direct the fourth respondent to remove the entries made in the encumbrance certificate in furtherance to the impugned order dated 26.12.2022.

For Petitioner : Mr.T.Mohan,
Senior Counsel for
Mr.P.Munusamy

For Respondents : Mr.R.P.Murugan Raja,
Government Advocate
for R1 to R4

ORDER

Heard Mr.T.Mohan, learned Senior Counsel representing for Mr.P.Munusamy, learned counsel for the petitioner and Mr.R.P.Murugan Raja, learned Government Advocate for respondents 1 to 4.

2.Since this Court is directing the second respondent to consider the petitioner's representation, after giving due notice and opportunity to respondents 5 and 6 herein, notice to respondents 5 and 6 is hereby dispensed with.



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3.The writ petition has been filed, challenging the order bearing Na.Ka.No.1963/U/2022 dated 26.12.2022, passed by the second respondent and seeking for a direction to the fourth respondent to remove the entries made in the encumbrance certificate in furtherance to the impugned order dated 26.12.2022.

4.On the strength of a complaint given by respondents 5 and 6, wherein they have sought for cancellation of Settlement Deed dated 05.09.2008, which stood in the name of the petitioner, the third respondent had passed an order directing the fourth respondent not to carry out any registration in furtherance to the Settlement Deed dated 05.09.2008. The order of third respondent was confirmed on Appeal by the second respondent herein, which orders are under challenge in the present writ petition.

5.Though various grounds have been raised, challenging the orders of the Original Authority as well as the Order in Appeal, the learned Senior Counsel for the petitioner submitted that the order of the Appellate Authority dated 26.12.2022 is a non-speaking order. As



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pointed out by the learned Senior Counsel, the second respondent herein, though had narrated the facts leading to filing of the Appeal and the passing of the order, had not rendered any independent findings as to the grounds raised by the petitioner in her Appeal and so also, the reasonings adopted by the third respondent herein while directing the fourth respondent not to carry out any registration in furtherance to the Settlement Deed dated 05.09.2008. As such, the order itself is deemed to be a non-speaking order.

6.In this background, this Court is of the view that all the grounds raised by the petitioner could be agitated before the second respondent herein and the matter could be remitted back for re-consideration.

7.Accordingly, the impugned order Na.Ka.No.1963/U/2022 dated 26.12.2022 passed by the second respondent alone is set aside and the mater is remitted back to the second respondent for re-consideration. The second respondent, while passing such orders, shall consider all the objections raised by the petitioner in her Appeal and after giving due notice and opportunity to the petitioner, respondents 5 and 6 as well as



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all other persons who may be interested in the subject property, shall pass speaking order, within a period of three months from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition stands disposed of.

Consequently, connected W.M.P. stands closed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order

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M.S.RAMESH,J.

vga

To

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