



WEB COPY

WP No.23855 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-06-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.23855 of 2016

And

WMP Nos.20471 and 20472 of 2016

- 1.Mrs.Papathi
- 2.Mr.M.Venkatachalam
- 3.Mr.Ramar
- 4.Ms.Maruthambal

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Represented by The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

- 2.The Chief Controlling Authority/
I.G. of Registration,
125, Santhome High Road,
Chennai-600 028.



3. Additional I.G. of Registration,
Multipurpose Building Complex,
2nd Floor, Khajamalai,
Mannarpuram,
Tiruchirapalli-20.

4. The District Registrar (Administration),
Ariyalur,
Perambalur District.

5. The Sub Registrar,
Perambalur,
Perambalur District.

6. Mrs. Chellam

7. Mr. Daiveekam

8. Mrs. Amutha

9. Mrs. Sumathi

10. Mrs. Nallakannu

11. Mr. P. Prabakaran

12. Mr. Pradeep

13. Ms. Priya

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that the registration of decree in O.S.No.40 of 2008 passed by the Subordinate Court, Perambalur as document No.11 of 2011 dated 05.07.2011 in respect of the properties viz., (1) 2.17 Acres of dry land in Survey No.307/5, (2) 1.50 Acres of dry land in Survey No.307/7 and (3) 1.18 Acres of dry land in Survey No.308/1, in Thurimangalam Village, Perambalur District is not valid and binding on the petitioners.

For Petitioners : Mr.George Graham for
Mr.Devadason

For Respondents-1 to 5 : Mr.D.Ravichander,
Special Government Pleader.

For Respondents-6 to 13 : No Appearance

ORDER

The Writ of Declaration is filed declaring that the registration of decree in O.S.No.40 of 2008 passed by the Subordinate Court,



Perambalur as document No.11 of 2011 dated 05.07.2011 in respect of the properties viz., (1) 2.17 Acres of dry land in Survey No.307/5, (2) 1.50 Acres of dry land in Survey No.307/7 and (3) 1.18 Acres of dry land in Survey No.308/1, in Thurimangalam Village, Perambalur District is not valid and binding on the petitioners.

2. The learned counsel for the petitioners mainly contended that the decree entered by the Registering Authority is the ex parte decree and therefore, the Registering Authority ought not to have entertained the same for entering the decree in the Encumbrance Register.

3. The petitioners have raised several grounds on merits and this Court is of the considered opinion that such issues raised by the petitioners on merit cannot be adjudicated in the writ proceedings.

4. The learned Special Government Pleader appearing on behalf of the respondents 1 to 5 relying on the counter-affidavit filed by the respondents made a submission that only on issuance of proceedings by the District Legal Aid Commissioner by letter dated 05.11.2011 in letter No.753



of 2011, action was taken and the decree copy was received along with the District Legal Aid Committee's letter dated 05.11.2018 and the Sale Deed was cancelled after the rejection of the appeal vide Document No.L11 of 2011.

5. As per the Encumbrance Certificate issued by the Sub Registrar dated 10.02.2012 in Application No.108, the suit decree was registered as document No.L11 of 2011 in Book No.1 made by the Fourteenth Respondent. Therefore, if at all the ex parte decree is set aside or any further decree or otherwise, has been passed by the Competent Court of Law, the petitioners have to present the same before the Sub Registrar for modification or making necessary entries in the Encumbrance Certificate.

6. Contrarily, the decree entered in the Encumbrance Register need not be interfered with by this Court, since such entry was made based on the application received from the District Legal Aid Committee. Thus, the petitioners have to work out their remedy in the manner known to law.

7. With the above observations, the writ petition stands



dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

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Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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S.M.SUBRAMANIAM, J.

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