



WA No.829 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2023

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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A.Usha ... Appellant

versus

1.The Revenue Divisional Officer,
Tambaram, Chennai.

2.G.Thambiraj

3.T.Jaya ... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 27.02.2023 in WP No.20671 of 2018.

For the Appellant :: Mr.P.Vijendran

For the Respondents :: Mr.P.Muthukumar,
State Government Pleader,
for the first respondent



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JUDGMENT

(Made by the Hon'ble Acting Chief Justice)

This writ appeal has been filed questioning the correctness of the order passed by learned Single Judge in WP No.20671 of 2018, dated 27.02.2023.

2. The writ petition had been filed seeking a writ of mandamus directing the Revenue Divisional Officer, Tambaram, to take steps to retrieve the land in S.No.510/6 (Old S.No.179/Pa) from respondents 2 and 3 and hand over the same to the appellant herein. Learned Single Judge dismissed the writ petition on the ground that the first respondent has been wrongly impleaded in the writ petition as he is not the jurisdictional officer for the said land. Learned Single Judge also further stated that the correct jurisdictional officer is the Revenue Divisional Officer, Sriperumbathur. The appellant was given liberty to make a fresh representation to the Revenue Divisional Officer, Sriperumbathur, and dismissed the writ petition.

3. Learned counsel for the appellant argued that the appellant's husband was working as a Head Constable with the police Department and he expired in the year 2008, leaving behind him the appellant and a son and a daughter. At that time, the children were studying in school. The Government had issued a



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plot through the revenue department to the appellant's late father Thiru.Kathirvelu on 30.06.1994 under the 'Natham land taxation scheme' in New S.No.510/6 (Old S.No.179/Pa), to an extent of 0070 sq.mt vide patta no.527 in Village No.50, Kovur village, Sriperumpathur Taluk, classified as 'Chery natham'. It is further stated that the appellant's father had also settled the said vacant land to the appellant through a settlement deed dated 20.05.2003. The appellant has constructed a house there on, by spending her husband's money and she was living there with her family members. After her husband's demise, the appellant and her children were suffering financially. The appellant was unable to meet the educational expenses of her children. At that time, respondents 2 and 3 were introduced to the appellant by her brother-in-law. Respondents 2 and 3 undertook to arrange educational loan to the children and requested the appellant for house documents. Respondents 2 and 3 advised the appellant to open a joint bank account to avail educational loan. Accordingly, a joint bank account was opened in the name of the appellant and the second respondent, in the Indian Bank, Ayanavaram Branch. Thereafter, respondents 2 and 3 took the appellant to a shop near the Sub-Registrar's Office, Kundrathur, and obtained her signature in some blank stamp papers on the premise that the same is required for mortgaging the property for availing educational loan. After a month, a sum of Rs.2.25 lakh was paid to the appellant and she was assured that the rest would be paid in due course. However, no amount was paid. One fine



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morning, respondents 2 and 3 came to the house of the appellant and informed her and her tenants that the property stood transferred in their name and directed the appellant and others to vacate the premises immediately. On verification with the office of the Sub-Registrar's Office, Kundathur, the appellant came to know that she has been cheated by respondents 2 and 3.

4. Immediately thereafter, the appellant lodged a complaint before the Mangadu Police Station, on 19.07.2009. However, no action was taken thereon. Therefore, the appellant lodged a complaint before the Commissionerate of Sub Urban, Chennai. During the pendency of the complaint, the first respondent trespassed into her house on 04.08.2010, along with rowdy elements and damaged the house and household properties. A complaint was lodged before the Assistant Commissioner of Police, St.Thomas Mount, on 09.08.2010. However, no action was taken. On the contrary, a case was registered against the appellant in Cr.No.378/2010 under Section 448, 294(b), 506(ii) IPC and she was sent to judicial custody. However, learned Judicial Magistrate, Sriperampathur, acquitted the appellant.

5. Again, the appellant lodged a complaint against respondents 2 and 3 before the Mangadu Police Station. However, there was no response. Hence, the appellant filed Crl.O.P.No.18192/2014 before this Court, for registration of a



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complaint. This Court allowed the original petition vide order dated 22.07.2014. Since respondents 2 and 3 cheated the appellant by creating forged sale deeds, the appellant made a representation to the first respondent on 13.04.2018 with a request to retrieve the property from respondents 2 and 3 and handover the same to the appellant. Since there was no action taken thereon, the appellant has filed the above writ petition, which was dismissed by learned Single Judge. As against the same, the present writ appeal has been filed.

6. For the following reasons, this Court is not inclined to entertain the writ appeal:

(i) The appellant has made a false statement before this Court. In the affidavit filed in support of the writ petition, it has been clearly mentioned that respondents 2 and 3 undertook to arrange educational loan for the children of the appellant, and requested the appellant to part with house documents, for giving them as security for arranging loan. In paragraph 4 of the affidavit, the appellant has stated that she agreed for opening a joint account in the Indian Bank, Ayanavaram Branch, with the second respondent. This only implies that the appellant has willingly parted with her house documents;



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(ii) In paragraph 6 of the affidavit, the appellant has further stated that respondents 2 and 3 had taken the appellant to a shop near the Sub Registrar's Office, Kundrathur, wherein appellant's signature was obtained in some blank stamp papers by respondents 2 and 3, under the guise of mortgaging the property for availing educational loan. Admittedly, the appellant has also affixed her signature in the stamp papers and the sale deed is duly registered. Here again, the appellant has willingly taken part in the transaction;

(iii) After one month from the date of registration, respondents 2 and 3 paid a sum of Rs.2.25 Lakh to the appellant with a promise to pay the balance amount. One fine morning, respondents 2 and 3 informed the appellant and other tenants that the property has been transferred in their name and asked them to vacate the property. Since the appellant has executed a sale deed in favour of respondents 2 and 3, it is not known how the appellant could knock the doors of this Court with the relief as sought for. The appellant has already filed a police complaint against respondents 2 and 3. The appellant herself has suffered a criminal case though she was acquitted later.

(iv) While for the purpose of invoking the jurisdiction of the



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revenue authorities, the appellant in her representation dated 13.04.2018 states that the plot was assigned to her father by the Special Tahsildar, Sriperumbatur. But in the settlement deed dated 22.05.2003, it is clearly mentioned that the plot was the ancestral property of the appellant's grandfather Mr.Appu, and it was inherited by her father.

7. The appellant has no justification to come to this Court having executed a sale deed. The proper remedy for the appellant lies before the civil court. Instead of approaching the civil Court, the appellant has wrongly come to this Court. While dismissing the appeal, for wasting the Court's time, we impose a cost of Rs.1,00,000/- (Rupees One Lakh only), to be paid by the appellant or by her Advocate, to the Madras High Court Advocate Clerks' Association, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

(T.R., ACJ.) (D.B.C., J.)
10.04.2023

Index : Yes/No
Neutral Citation : Yes/No
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To
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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