



W.P.No.16059 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.05.2023

Coram

The Honourable Mr.Justice B.PUGALENDHI

W.P.No.16059 of 2023

S.Sarvothaman

...Petitioner

Versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Office of the District Registrar,
Chennai South,
Fanepet, Nandanam,
Chennai – 600 035.

3.R.Palanisamy

4.S.Shankar

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 2 to forthwith cancel the Document No.9499 of 2022 dated 23.06.2022 and Document No.18108 of 2022 dated 03.12.2022 by considering and passing necessary orders on the representation of the petitioner dated 15.05.2023.



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For Petitioner : Mr.K.Selvaraj
For Respondents – 1 & 2 : Mr.P.Balathandayutham,
Special Government Pleader

ORDER

Mr.P.Balathandayutham, learned Special Government Pleader takes notice for the respondents 1 & 2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The relief sought by the petitioner in this writ petition is to direct the respondents 1 & 2 to forthwith cancel the Document No.9499 of 2022 dated 23.06.2022 and Document No.18108 of 2022 dated 03.12.2022, by considering and passing necessary orders on his representation dated 15.05.2023.

3. The brief facts of the case are as follows:

The petitioner's father viz., Somasundaram Chettiar was the absolute owner of the property measuring to an extent of 49 Cents in Old Paimash No.348A, corresponding to S.No.89/2 situated at Thiruvanmiyur Village,



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Thiruvannamiyur, Chennai. On 30.05.1962, he executed a Registered Will and Testament, bequeathing the said property to his son (petitioner) and thereafter, he died on 14.06.1962. After his death, his son (petitioner) became the absolute owner of the said property. This Court vide its order in T.O.S.No.8 of 1963 dated 07.07.1966, granted probate to the Will of the deceased petitioner's father.

3.1. While so, on 03.12.2022, the fourth respondent has executed a fraudulent Sale Deed and transferred the petitioner's aforesaid property, to and in favour of the third respondent and the same was registered as Document No.18108 of 2022. That apart, on 30.04.2023, the respondents 3 & 4 and their men have attempted to trespass into the petitioner's aforesaid property and put up a construction therein. Hence, the petitioner has filed a petition in Crl.O.P.No.10204 of 2023 before this Court, praying to direct the respondents 1 & 2 therein to give necessary police protection to him and his aforesaid property by considering his representation dated 01.05.2023. This Court vide its order dated 04.05.2023 disposed of the said petition by directing the respondents therein to conduct enquiry and pass appropriate orders, within a period of four weeks from the date of receipt of that order.



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3.2. Thereafter, the petitioner made a petition dated 15.05.2023 to the respondents 1 & 2 under Section 77A of the Registration Act, 1908, requesting them to cancel the fraudulent Sale Deed & Release Deed which were registered as Document No.9499 of 2022 dated 23.06.2022 & Document No.18108 of 2022 dated 03.12.2022 and other documents registered in the said footing and also, to remove the entries from the encumbrance of the aforesaid property. On the very same date, the petitioner has also submitted a Statutory Appeal before the Revenue Divisional Officer, for cancellation of Patta given in favour of the third respondent. Even after the receipt of petitioner's petition dated 15.05.2023, the respondents 1 & 2 have not yet taken any action on the same. Hence, left with no other alternative, the petitioner has filed the present writ petition for the relief stated *supra*.

4. The learned counsel for the petitioner submitted that the petitioner is the absolute owner of the subject property, but, the respondents 3 & 4 have created fraudulent documents and also, registered the same as Document No.9499 of 2022 dated 23.06.2022 & Document No.18108 of



2022 dated 03.12.2022 respectively. Further, based on the said fraudulent documents, they have attempted to trespass into the petitioner's property and put up a construction therein. Therefore, the learned counsel prayed this Court to give appropriate direction to the respondents 1 & 2 to consider the petitioner's representation and cancel the said forged documents forthwith.

5. The learned Special Government Pleader who takes notice for the respondents 1 & 2 submitted that the petitioner's representation dated 15.05.2023 has not yet reached the concerned authority.

6. Heard the learned counsel on either side and perused the materials placed before this Court.

7. Considering the rival submissions made by the learned counsel on either side, this Court directs the second respondent to ascertain as to whether the petitioner has made a petition under Section 77A of the Registration Act, 1908, for cancellation of aforesaid fraudulent documents created by the respondents 3 & 4, and if any such petition has been made by the petitioner, dispose of the same on merits and in accordance with law,



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after affording an opportunity to the petitioner as well as the concerned parties. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. Since no adverse order is being passed against the respondent 3 & 4, notice to the respondents 3 & 4 is dispensed with.

9. With the above observations, this writ petition is disposed of. No costs.

24.05.2023

mrr

Index : Yes/No

To

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B.PUGALENDHI, J.

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