



W.P.No.24263 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.24263 of 2023

and

W.M.P.Nos.23725, 23726 & 23727 of 2023

V.Muralidharan

...Petitioner

Vs.

- 1.The Assistant Director (A.D)
Office of the District Town & Country Planning (D.T.C.P)
No.56A, TAHDCO Building
Government Hospital Road
Villupuram, Villupuram District.
- 2.The Sub-Registrar (SRO)
Mailam, Tindivanam-”Taluk”,
Villupuram-”Dist”.
- 3.The District Registrar (D.R)
Sandaimedu, Tindivanam, Villupuram- “District”.
- 4.V.Vimala Bhai
- 5.R.Ganesh
- 6.R.Ramesh
- 7.R.Premcharan Balaji
- 8.R.Senthil Kumar
- 9.P.Santhosh
- 10.P.Varun Soradiya
- 11.P.Silpa Soradiya



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12.P.Prethima

13.P.Preksha

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, after calling for the concerned records in Na.Ka.No.964/2023VI.ma2, dated 12.06.2023 passed by the first respondent herein pertaining of “sanction” to the above alleged purchaser of the suit properties in pursuance of the sale deed bearing No.2402 of 2022 dated 11.07.2022 from forming the “roads” and the “park” and to quash the same.

For Petitioner : Mr.M.Arumugam

For Respondents : Mr.P.Anandha Kumar for R1 to R3
Government Advocate

ORDER

This Writ Petition is filed challenging the order passed by the first respondent informing the petitioner that the layout application filed by the respondents 8 to 13 will be approved as the documents furnished by them proved their title over the property.



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2. The case of the petitioner is that the property in respect of which the layout is proposed was originally purchased by him on 13.11.1990 while he was a minor through his father. His father sold the properties to one V.Vimala Bhai on 30.12.1997 after obtaining necessary permission from the Principal District and Sessions Court, Villupuram, in G.O.P.No.18 of 1996. In the said original petition permission was granted to father of the petitioner on condition the sale consideration shall be deposited in any Nationalized Bank of Mailam in the name of the petitioner and the same has to be paid to him on attaining majority.

3. It is the specific case of the petitioner that the sale consideration was not deposited as directed however, the property was sold by his father to above said V.Vimala Bhai on 30.12.1997. Thereafter, the said V.Vimala Bhai executed General Power of Attorney in favour of her husband Vidhya Chand and through her Power of Attorney sold the property to Ganesh and others on 02.09.2004. The petitioner herein filed a suit in OS.No.210 of 2015 on the file of the Additional Subordinate Court, Tindivanam against the said V.Vimala Bhai, Ganesh and others seeking declaration of his title and



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permanent injunction. In the said suit, the petitioner sought for a declaration that the sale deed dated 30.12.1997 registered as Doc.No.1699 of 1997 on the file of the Sub-Registrar Office, Mailam was null and void. The petitioner also sought for a declaration that subsequent sale deed dated 02.09.2004 registered as Doc.No.1432 of 2004 on the file of the Sub-Registrar Office, Mailam was also not valid.

4. It is the specific case of the petitioner that the respondents 5 to 7 herein, who were arrayed as defendants 3 to 5 in the said suit, sold the subject matter of the suit property in favour of the respondents 8 to 13 pending the above said suit and thereafter the respondents 8 to 13 submitted an application for approval of the layout in the respect of the above said land before the first respondent. It is the case of the petitioner that if approval is granted by the first respondent pending suit, the rights of the petitioner will be greatly prejudiced.

5. It is also seen from the averments found in the affidavit filed in support of the Writ Petition that the above suit filed by the petitioner was dismissed for default on 12.03.2020 and thereafter, the petitioner herein filed



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an application for restoration of the suit in IA.No.268 of 2021 and the same is pending as on date. In the above said suit, the petitioner challenged the sale deed dated 30.12.1997 thereunder the father of the petitioner sold the property to the defendants 1 & 2 therein. The petitioner also challenged the subsequent sale deed dated 02.09.2004 executed by the purchasers from his father namely defendants 1 & 2 in favour of the defendants 3 to 5 therein. The said suit was filed by the petitioner only in the year 2015, nearly after 18 years from the date of original sale by his father. As per affidavit filed in this Writ Petition the age of the petitioner is mentioned as forty years. In the plaint filed in OS.No.210 of 2015, the petitioner mentioned his age as thirty three years at the time of filing of suit. Hence, it is clear that the petitioner filed the above suit nearly fifteen years after attaining majority.

6. Admittedly, the suit was already dismissed for default and as on today, there is no suit pending. The respondents 8 to 13 are subsequent purchasers after dismissal of the suit for default. In these circumstances, the balance of convenience is not in favour of the petitioner to pass an orders restraining the first respondent from considering the application submitted by the respondents 8 to 13 for approval of the layout.



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7. It is seen from the impugned order that as per the documents furnished by the respondents 8 to 13 as on today, they are the owners of the property. The petitioner already filed a suit to set aside the parent documents of the respondents 8 to 13 and the suit is dismissed for default. In such circumstances, it is for the petitioner to restore the suit and get an appropriate interim order from the Civil Court. The petitioner already moved the Civil Court for redressal of his grievances and to establish his right over the property in question. Therefore, this Court is not inclined to entertain the Writ Petition.

8. In view of the fact that the petition for restoration filed by the petitioner is pending for more than two years, this Court is inclined to issue a direction to the Additional Subordinate Court, Tindivanam to dispose of the IA.No.268 of 2021 in OS.No.210 of 2015 within a period of 8 weeks from the date of receipt of copy of this order.



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9. With the above observations, this Writ Petition is dismissed.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.
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