



W.P.No.29201 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29201 of 2023
and
W.M.P.No.28799 of 2023

R.Sathyasheela

... Petitioner

versus

1.The District Registrar,
Office of the District Registrar,
Salem (West),
Salem.

2.The Sub Registrar,
Office of the Sub Registrar,
Magudanchavadi,
Salem District.

3.M.Rathinakumar
4.K.Senthilkumar

.... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus quashing the order passed by the first respondent in Na.Ka.No.5703/E4/2023 dated 11.09.2023 and further directing the first respondent to conduct the re-enquiry of schedule property at Idanganasalai Village of Sangagiri Taluk in S.No.632/1.

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For Petitioner : Mr.R.K.Arjun Raj
For Respondents : Mr.V.Veluchamy
Additional Government Pleader
for R1 and R2

ORDER

Mr.V.Veluchamy, learned Additional Government Pleader accepts notice for respondents 1 and 2. By consent of both the parties the writ petition is taken up for final disposal at the admission stage, itself.

2. This writ petition has been filed seeking for a Certiorarified Mandamus to quash the order passed by first respondent in Na.Ka.No.5703/E4/2023 dated 11.09.2023 and to direct the first respondent to conduct re-enquiry of scheduled mentioned property at Idanganasalai Village of Sangagiri Taluk in S.No.631/1.

3. According to the petitioner, the petitioner purchased the aforementioned property vide Document No.2777 of 2003 dated 03.12.2003 on the file of Sub-Registrar's Office of Magudanchavadi, Salem District. On 08.12.2008, the petitioner gifted the scheduled property to her husband



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vide Document No.5183 of 2008, who in turn gifted the said property to his brother vide Document No.5193 of 2008 dated 22.01.2019, who in turn gifted the said property to his wife vide Document No.114 of 2009 and the aforementioned gifts deeds were only for the purpose of money loan from each other. Thereafter, the petitioner cancelled the gift deed given to her husband vide Document No.3401 of 2009 dated 14.09.2009, who in turn cancelled the gift deed given to his brother vide Document No.3511 of 2009 dated 17.09.2009 and the said cancellation deeds were also registered in the respondent's office. Due to financial difficulties, with the intention of selling the property, the petitioner had entered into a sale agreement to Senthil Kumar and Kamalakannan and the said sale agreement was registered as Document No.2967 of 2009 dated 18.09.2009. Meanwhile, one Sudha had filed a writ petition vide W.P.No.1953 of 2023 seeking to direct the third respondent to cancel the registration of unilateral cancellation gift settlement deeds vide Document No.3401 of 2009 dated 14.09.2009 and Document No.3511 of 2009 dated 17.09.2009 in respect of the subject matter property. The aforementioned writ petition came to be ordered by remitting the matter back to the concerned Sub-Registrar to



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conduct the proceedings under Section 77-A for cancellation of the Gift Settlement Deed Document No.3401/209 dated 14.09.2009 and Document No.3511/2009 dated 17.09.2009 after giving due notice to the executants and all parties to the document and pass orders on its own merits and in accordance with law. The petitioner and her husband appeared before the respondent and filed statements with proper documents. The petitioner entered into sale agreement only after cancelling all the Gift Settlement Deeds. Even though the petitioner becomes the absolute owner of the property, the petitioner husband's brother and his wife were not allowing the petitioner to execute a sale deed. Therefore, the petitioner filed a suit before the Second Additional District Court, Salem vide O.S.No.674 of 2022 seeking to declare the petitioner is the absolute owner of the suit property and to vacate the possession and hand over the property to the petitioner. After hearing all oral and documentary evidence, the first respondent passed an order dated 11.09.2023 bearing reference Na.Ka.No.5703/E4/2023 without observing the order passed by this Hon'ble Court in W.P.No.1953 of 2023. Hence, the petitioner has filed the present



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writ petition seeking to quash the order dated 11.09.2023 passed by the first respondent and also to direct the first respondent to conduct re-enquiry of subject property.

4. Admittedly, the petitioner herself admitted that she executed a gift deed in favour of her husband, who in turn, executed the gift deed in favour of his brother, who in turn executed the gift deed in favour of his wife. Further, the petitioner admitted that she has cancelled the gift deed executed in favour of her husband, who in turn also cancelled the gift deed executed in favour of his brother. Whether the said cancellation is valid or not is the issue involved in this matter and it has to be decided by the competent Civil Court. The petitioner has also filed a suit in O.S.No.674 of 2022 before the competent Court for declaring that the petitioner is the absolute owner of the suit property and to vacate the possession and hand over the property to the petitioner and the same is pending. Further against the impugned order dated 11.09.2023, an appellate remedy under Section 77-B of the Registration Act, 1908 is available to the petitioner.



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5. Considering the fact that the cancellation of gift deeds is valid or not can be decided only by the competent civil Court and also considering that an appellate remedy is available to the petitioner under Section 77-B of the Registration Act, 1908 against the impugned order, this Writ Petition is dismissed by granting liberty to the petitioner to work out her remedy before appropriate forum in the manner known to law. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.10.2023

Speaking/Non-speaking order

Index : Yes/No

Neutral Citation : Yes/No

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To

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P.VELMURUGAN, J.

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