



WEB COPY



W.P.No.31750 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31750 of 2023

1.R.Paraman

2.P.Santha

...

Petitioners

/vs/

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

2.The District Registrar,
Namakkal.

3.The Sub-Registrar,
Joint– 1, Registrar Office,
Namakkal.

4.S.Pandiyan

...

Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records relating to impugned order passed by the 2nd respondent in Na.Ka.No.1656/A5/2022 dated 01.06.2022 and quash the same consequently directing the official 2nd respondent to conduct the enquiry after affording opportunity to the parties concerned and to cancel the registration of the Court Decree in Doc No.3127 of 2006 dated 27.12.2006 and to delete the entry made in Encumbrance certificate in Serial No.5, in exercise of the powers given u/s 68(2) of the Registration Act 1908.

For Petitioners

... Mr.Ma.P.Thangavel



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For Respondent
Nos.1 to 3

... Mr.Yogesh Kannadasan
Spl.Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus calling for the entire records relating to impugned order passed by the 2nd respondent in Na.Ka.No.1656/A5/2022 dated 01.06.2022 and quash the same and consequently, directing the official 2nd respondent to conduct an enquiry after affording opportunity to the parties concerned and to cancel the registration of the Court Decree in Doc No.3127 of 2006 dated 27.12.2006 and to delete the entry made in Encumbrance certificate in Serial No.5, in exercise of the powers given u/s 68(2) of the Registration Act 1908.

2.The impugned order states that the writ petitioner gave a representation dated 07.03.2022 to the second respondent to cancel the registration of the Court decree with the third respondent. After the decree was passed by the Court, it was registered. Unless it is set aside, the same cannot be cancelled. Therefore, the writ petition has been filed.



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3.The learned counsel appearing for the petitioners submitted that the decree holders, without having any right and title over the properties, filed the suit between the family members for partition and obtained final decree and the said final decree has been sent for registration and the same was registered. The decree holders do not have any right or title over the properties and therefore, the registered final decree has to be cancelled and the entry made in Encumbrance certificate has also to be deleted.

4.Heard the learned counsel appearing for the petitioners as well as the learned Spl.Government Pleader appearing for the respondents and perused the materials available on record.

5. On perusal of the materials available on record, it is seen that the subject matter is only to cancel the registration of Court decree with the third respondent. In support of the same, the petitioners have not produced any document to show that the said decree, which was registered before the third respondent, is set aside or it is modified. Unless the decree registered with the third respondent is set aside or modified, either the second



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respondent or third respondent, has no authority to cancel it. Therefore, the writ petition is not maintainable and the petitioners are not entitled to the relief sought for in the writ petition. Accordingly, the writ petition is dismissed. No costs.

Index : Yes/No
Speaking Order: Yes/No
Neutral case citation: Yes/No
sms

01.12.2023

To

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.
- 2.The District Registrar,
Namakkal.
- 3.The Sub-Registrar,
Joint– 1, Registrar Office,
Namakkal.



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P.VELMURUGAN,J.

sms

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