



W.P(MD)No.3483 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3483 of 2022

and

W.M.P.(MD)No.3058 of 2022

1.T.V.Omnath

2.T.O.Sasikala

... Petitioners

Vs.

1.The District Registrar (Administration)

Madurai (south)
171 Palace Road,
Madurai 625 001.

2.The Sub Registrar (Joint No.I)

Madurai South
171 Palace Road,
Madurai 625 001.

3.G.Sasikala

4.T.Rathakrishnan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in Na. Ka. No. 3541/Aa2/2021 dated 22-11-2021 and to quash the same as illegal and consequently to direct the 2nd respondent to delete the endorsement made as documents bearing registration numbers 5688/2020 and 6390/2020 as forged documents in the index of relevant encumbrances.



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For Petitioners : Mr.T.R.Jeyapalam

For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1 & R2

: no appearance for R3 & R4

ORDER

Heard the learned counsel for the petitioners, the learned Additional Government Pleader appearing for R1 & R2. The respondents 3 & 4 have been served and their name is printed in the cause list. But they have not chosen to enter appearance.

2. The petitioners are husband and wife. Vide sale deed dated 07.09.2020 registered on the file of the second respondent as Document No.5688/2020, the petitioner purchased the petition mentioned property. Subsequently, the same was mortgaged by them in favour of the Repco Bank on 22.09.2020 (Document No.6390/2020). The 4th respondent herein Thiru.Rathakrishnan lodged a complaint before the District Registrar(Administration), Madurai South for cancelling the said documents. Acting on his complaint and after conducting enquiry, the impugned order dated 22.11.2021 was passed labelling the sale deed dated 07.09.2020 and the mortgage deed dated 22.09.2020 as fraudulent.



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A direction was given not to entertain any further transactions on the strength of these two documents.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The second respondent has filed counter affidavit. The learned Additional Government Pleader took me through its contents. The vendors of the writ petitioners executed the sale deed on the strength of the parent title document dated 10.01.1955. As per the terms of the parent document, the petitioner's vendors had a title only over 339.7 square feet. However, in the impugned sale deed dated 07.09.2020, the extent of the site has been mentioned as 418 square feet. It is further pointed out that the petitioners had only 1/3rd undivided share in the common lane meant for the land owner of Survey Nos. 484/1, 484/2 & 484/4. The petitioners could not have quantified their share and included the same in the overall extent of their land in their favour. In fact, Rathakrishnan has specifically objected to the inclusion of 58 ¼ square feet of land in the sale deed.



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5. When I asked the learned counsel appearing for the petitioners as to whether the petitioners should have described their right in the common lane in the 1/3rd undivided share or whether they could have claimed 58 1/4th share therein, on instructions from Thriu.T.V.Omnath present in person, the learned counsel submitted that in future, when the petitioners deal with the property, they will describe their right in the common lane as 1/3rd undivided share and they will not show it in the overall extent.

6. This undertaking given by the petitioners through their counsel is placed on record. It is true that the parent document dated 10.01.1955 refers only to 339.7 square feet of land as belonging to Patchai Muthu Pillai. But then, the learned counsel for the petitioners, on instructions, categorically asserts that as on date, the site measures 418 square feet. He drew my attention to the survey sketch issued by the madurai corporation. It is seen therefrom that S.No.484/4 measures an extent of 418 square feet. This is apart from common lane. The measurement of the four boundaries has also been set out in the survey sketch. The sale deed is a mere reflection of the measurement set out in the survey sketch issued by the Madurai Corporation. Therefore, the documents could not have been labelled as fraudulent. The impugned order is set aside.



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7. The writ petition is allowed by recording the aforesaid undertaking of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

11.10.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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