



WEB COPY



WP(MD)No.2923 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.2923 of 2023

S.V.Balsamy Iyer & Brothers Trust

Rep.by its Present Manager,

S.K.Ganesan

... Petitioner

v.

1.The District Registrar (Administration),
District Collector Office Compound,
Dindigul, Dindigul District.

2.Joint 2 Sub Registrar,
District Collector Office Compound,
Dindigul, Dindigul District – 624 004.

3.Vinothraj

... Respondents

(R4 suo motu impleaded vide
order dated 25.08.2023)

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 culminating in the impugned order dated 08.12.2022 bearing Na.Ka.No.5249/A3/2021 issued by the first respondent and quash the same and confirm the second respondent's registered intimation as Document No. 60/2022.



WP(MD)No.2923 of 2023

For Petitioner : Mr.N.Anantha Padmanaban, Senior Counsel
for Mr.A.Sathasivam

For Respondents : Mr.C.Satheesh, Government Advocate
1 & 2

WEB COPY

ORDER

Heard the learned Senior Counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first and second respondents. Notice was issued to the third respondent. However, it has been returned with the endorsement "left".

2.The petitioner is a registered trust. The case of the petitioner is that in respect of the petition-mentioned property, an unauthorized agreement was entered into with the third respondent and based on the same, the third respondent filed a suit for specific performance in O.S No.103 of 2012 on the file of the Additional District Judge, Dindigul. The suit was decreed "exparte". E.P No.218 of 2013 was filed. The sale deed was executed on 19.03.2015 as Document No.1570 of 2015 on the file of the second respondent. When the petitioner came to know of the same, E.A No.1 of 2021 was filed. The third respondent herein entered appearance through his counsel. After hearing both the parties, E.A No.1 of 2021 was allowed on 19.09.2022 in the following terms :



WEB COPY



WP(MD)No.2923 of 2023

"The case of the petitioner is that, the respondent/plaintiff herein filed a suit in O.S. No.103/2012 for specific performance relief as against Venkataraman, represented by Subramanian and got an exparte decree in favour of the plaintiff on 17.01.2013. Based on the Exparte decree, the respondent/plaintiff filled the EP. No.218/2013 and got sale deed, which was executed by this court. Further case of the petitioner is that suit in O.S. No.103/2012 was filled as against the dead person, namely Venkataraman, and obtained a decree, which is not valid. Based on exparte decree, the E.P. was filed as against the dead person and obtained sale deed through court is not valid. Admittedly the petitioner is not a party in O.S. No.103/2012. As a 3rd party, the petitioner herein filed an application In I.A. No.258/2018 to set aside the exparte decree dated 17.01.2013. The said application was allowed on 03.12.2019 as per Ex. P.1. Against the said order, the respondent/plaintiff had not preferred any appeal. Hence, the order passed in I.A. No.258/2018 is reaches finality. On 16.03.2020, the suit in O.S. No.103/2012 was dismissed as per Ex. P.2. As on date, there is no decree in favour of the plaintiff in O.S. No.103/2012. Ex. P.3 is a copy of sale deed, which was executed by this court in favour of the respondent. On perusal of Ex. P.3, It reveals that as per Exparte decree In O.S. No: 103/2012, dated 17.01.2013, a sale deed was executed in favour of the respondent. Since, Exparte Decree dated 17.01.2013 was set aside as per Ex. P.1, and as per Ex. P.2, the suit in O.S. No.103/2012 Itself was dismissed. As on date, there



WEB COPY



WP(MD)No.2923 of 2023

is no decree in favour of the respondent/plaintiff. Hence, Ex.P.3, sale deed executed is not valid one and answer these issues accordingly.

In the result, the sale deed, dated 19.03.2015, bearing Registration No.1/1570/2015, before Joint II Sub Registrar, Dindigul, executed and registered through this court in the above E.P., is null and void and the petition is allowed."

My attention is drawn to the communication bearing No.1103 dated 27.09.2023 addressed by the learned Additional District Judge, Dindigul to the second respondent herein for taking consequential action. The petitioner also submitted a representation dated 20.09.2021 to the first respondent in this regard. The first respondent instead of taking consequential action, relegated the petitioner to move the jurisdictional civil court. Challenging the said proceedings dated 08.12.2022, this writ petition came to be filed.

3.I am more than satisfied that the impugned proceedings will have to be set aside. Rule 118 of the Tamil Nadu Registration Rules is as follows :

"118.If a registered document is declared by a Court to be a forgery or to have been registered under admission made by a person who falsely personated the executant a note calling attention to the fact shall be entered at the foot of the entry in the register and when practicable on the document."



WP(MD)No.2923 of 2023

In the case on hand, the document in question had been declared to be nullity. This is because, the decree based on which the document came to be executed itself ceased to be in existence. I, therefore, set aside the impugned order. The second respondent is directed to enter petition mentioned order dated 19.09.2022 made in E.A No.1 of 2021 in E.P No.218 of 2013 on the file of the learned Additional District Judge, Dindigul in the encumbrance register and also on the offending document.

4.This writ petition is allowed. No costs.

30.10.2023

Index : Yes / No
Internet : Yes / No
Skm

To

1.The District Registrar (Administration),
District Collector Office Compound,
Dindigul, Dindigul District.

2.Joint 2 Sub Registrar,
District Collector Office Compound,
Dindigul, Dindigul District – 624 004.



WEB COPY



WP(MD)No.2923 of 2023

G.R.SWAMINATHAN, J.

SKM

WP(MD)No.2923 of 2023

30.10.2023