



W.P.(MD) No.9003 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.9003 of 2020

and

W.M.P.(MD) No.8228 of 2020

Maha @ Mahalakshmi

.. Petitioner

Vs.

1.The District Registrar,
Office of District Registrar,
Court Campus, Cantonment,
Thiruchirapalli-1.

2.P.Vignesh

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to call for the records of the first respondent pertaining to Na.Ka.No.3308/A4/2020 dated 22.05.2020 and to declare the same as null and void as it was issued without authority and in violation of the circular bearing Letter No. 41530/U1/2017 dated 08.11.2017 issued by the Inspector General of Registration



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For Petitioner : Mr.P.Sesubalan Raja
For R1 : Mr.T.Amjadkhan
Government Advocate
For R2 : Mr.K.Amzathkhan

ORDER

This writ petition is filed for the issue of a Writ of Certiorari calling for the records of the first respondent in his proceedings dated 22.05.2020 in Na.Ka.No.3308/A4/2020 to declare the same as null and void.

2. The facts that are necessary to dispose of the writ petition are herein below set out:

The property measuring an extent of 0.86 cents comprised in S.No.134/18 of Samayapuram Village, Manachanallur Taluk, originally belonged to two brothers viz., Manickam and Marudhanayagam. The brothers orally partitioned the same. Marudhanayagam being allotted an extent of 0.40 cents and Manickam, an extent of 0.46 cents. After the



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demise of Manickam, his 0.46 cents devolved on his four sons viz., Thannimalai, Paramasivam, Thiyagarajan and Natesan. The brothers had partitioned the property and Thannimalai was allotted the petition mentioned property and other family members were allotted the other properties. On Thannimalai's demise, his two sons, Kunalan and Balan had inherited the property. Both of them were at Singapore and had appointed one Amirtham Ammal as their Agent vide General Power of Attorney dated 27.02.2002. The petitioner herein purchased an extent of 0.20 cents under a sale deed dated 17.08.2005 registered as Document No.1732/2005 on the file of Sub Registrar's Office, Manachanallur, and the remaining 0.26 cents was purchased by her mother Vijayalakshmi under a sale deed dated 22.12.2006 registered as Document No. 2860/2006. Both sale deeds were executed by the Power of Attorney of Kunalan and Balan. By reason of these deeds, the petitioner and her mother had become the owners and were in enjoyment of 0.46 cents.

3. While so, one Poosari and his family members attempted to disturb their peaceful possession thereby constraining the petitioner and



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her mother to file a suit in O.S.No.184 of 2009 on the file of the Additional District Munsif's Court, Lalgudi and an interim injunction was also obtained against Poosari and his family. Thereafter, the said Poosari and others filed a suit in O.S.No.152 of 2011 on the file of the District Munsif's Court, Lalgudi for declaration to declare the Power of Attorney dated 27.02.2002 and all subsequent transfers made under the said Power Agent as null and void and for a permanent injunction. The petitioner has filed her written statement and contested the suit. The second respondent in this writ petition was the fourth plaintiff in the suit. When the suit is ripe for trial, an amendment application was filed by the said Poosari and others to include the relief of setting aside the sale deeds dated 17.08.2005 and 22.12.2006. However, this application though filed beyond the period of three years, was allowed as against which the petitioner and her mother preferred C.R.P.(MD) No.2230 of 2015, before this Court which was allowed by this Court by order dated 22.02.2019 dismissing the application filed by Poosari and others. Thereafter, since Poosari and others had failed to come forward to conduct the trial of the suit, the petitioner and her mother filed C.R.P.(MD) No.2285 of 2019 to



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dispose of the suit, which was allowed by this Court by order dated 11.12.2019. A direction was also issued to the trial Court to dispose of the suit in O.S.No.152 of 2011 within a period of six months from 11.12.2019. The second respondent viz., P.Vignesh, son of Poosai, without completing the trial, had given a complaint to the first respondent to set aside the sale deeds executed in favour of the petitioner. The first respondent, had thereafter issued the impugned notice dated 22.05.2020 directing the petitioner to appear before him on 20.07.2020. The petitioner has also appeared before the first respondent and informed him about the pendency of the suit. But the first respondent refused to drop the proceedings. Therefore, the petitioner is before this Court.

4. Heard the learned counsel for the parties.

5. The documents in question have been registered by the first respondent and the matter is *sub judice* before a civil Court. Further, the second respondent had not prayed to have the sale deeds set aside and the subsequent application for amending the plaint to include the prayer



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for cancelling the sale deeds has been dismissed by this Court by orders of this Court in revision.

6. When there is a serious contest with reference to the documents in question, it is only a competent civil Court that can go into the said issue and the first respondent is not empowered to consider the question of title. Therefore, the proceedings initiated by the first respondent is without any basis and deserves to be quashed.

7. Accordingly, this writ petition is allowed and the impugned order dated 22.05.2020 is set aside. It is made clear that the first respondent shall not proceed with the enquiry till the disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

30.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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P.T.ASHA, J.

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Dated: 30.03.2023