



W.P.(MD) No.9403 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.9403 of 2020

and

W.M.P.(MD) No.8537 of 2020

N.Premalatha

.. Petitioner

Vs.

1.The District Registrar,
Palani, Dindigul District.

2.The Sub Registrar,
Gujiliyamparai,
Gujiliyamparai Taluk,
Dindigul District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.4064/E1/2019 dated 30.10.2019 and quash the same and consequently direct the 1st and 2nd respondents to delete the entry from the encumbrance certificate with regard to property in Survey Nos.827/1, 827/2, 826/10, 833/4, 826/14, 826/9, 829/2, 826/8 and 833/3 situated at Palayam Village, Gujiliyamparai Taluk, Dindigul District.



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For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

Despite orders of a civil Court, the Registering Authority who was bound to comply with the decree and delete the entry in the encumbrance certificate has abdicated his responsibility. Added to that, the first respondent had passed the impugned order in which he has stated that he does not have the authority to unilaterally cancel the registered document and that if orders of Court were obtained, necessary action would be taken. The very impugned order reflects the absolute non-application of mind on the part of the Registering Authority and the petitioner has rightly sought to have the order quashed and a direction issued to the respondents to delete the entry.

2. The petitioner would submit that she had married one Siva Perumal and out of this wedlock, the couple were blessed with a son



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Gokuldass, who is now aged about 22 years. After the birth of Gokuldass, the petitioner's husband had deserted her and was living with another woman. Therefore, her father-in-law had executed a settlement deed in favour of her son Gokuldass under a settlement deed dated 29.08.2000 registered as Document No.575/2000. In the deed, she was appointed as guardian of her son and the possession of the lands covered under the settlement deed was also handed over to her on behalf of her son. Since then she has been enjoying the lands in question and paying necessary *kist* in respect of the said property. It appears that without notice to the petitioner, her father-in-law unilaterally cancelled the settlement deed dated 29.08.2000 registered as Document No.575/2000 and thereafter, started interfering with the petitioner's possession and enjoyment of the lands. Therefore, the petitioner was constrained to file a suit in O.S.No.6 of 2010 on the file of the District Munsif cum Judicial Magistrate, Vedachandur for a declaration to declare the cancellation as null and void. The notice in respect of the suit was issued to her father-in-law who failed to appear and an *ex parte* decree came to be passed against him on 10.03.2010. Steps were not taken to even have the



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exparte decree set aside. Therefore, the decree had attained finality.

While so, her father-in-law's other son viz., Nallathambi filed a suit in O.S.No.11 of 2005 on the file of the District Court, Dindigul for partition against her father-in-law, her husband and herself. This suit came to be dismissed and the appeal preferred in A.S.No.263 of 2009 before this Court is pending disposal. The petitioner's father-in-law is no more and therefore, there is no questing her son's title.

3. The petitioner would further submit that she was under the genuine mistake that once the civil Court's decree was in her favour, the entry would automatically be removed from the encumbrance certificate. However, she came to know that the entry was not removed when she applied for a loan from a Bank by offering the property as security. Therefore, the petitioner had approached the first respondent with a request to remove the entry which was rejected by the impugned order.

4. The first respondents has failed to appreciate that as on date, there is a decree in favour of the petitioner which has declared the deed



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of cancellation as null and void. Therefore, the same has to be given effect to. After this cancellation, the deed cannot continue to be reflected in the revenue records. Further, the subsequent suit which has been filed is only one for a partition which clearly shows that the right of the petitioner and her son has been recognised in the suit which was filed by the brother of the petitioner's husband. In these circumstances, the refusal to give effect to a decree of a civil Court is rather unfortunate.

5. For the aforesaid reasons, this writ petition is allowed, the order impugned dated 30.10.2019 passed by the first respondent is quashed and the first respondent is directed to remove the entry within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

30.03.2023

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

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P.T.ASHA, J.

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To

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Dindigul District.

2.The Sub Registrar,
Gujiliyamparai,
Gujiliyamparai Taluk,
Dindigul District.

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