



WP(MD)No.12441 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.12.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.12441 of 2021

Elumalai

...Petitioner

/Vs./

- 1.The Inspector General of Registration,
Registration Dept.,
No.100, Santhome High Road,
Chennai-600 028.
- 2.The Deputy Inspector General Of Registration,
Registration Dept., Kajamalai, Trichy.
- 3.The District Registrar(Admn.),
Registration Dept., Collectorate Campus,
Karur, Karur District.
- 4.The Sub Registrar,
Sub Registrar Office,
Tharagampatty, Kadavoor Taluk,
Karur District.
- 5.S.P.Arockiam
- 6.Lakshmiammal
- 7.Angammal
- 8.The Tahsildar,
Taluk Office,
Manapparai, Trichy District.

...Respondents



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus, to call for the records of the 3rd respondent made vide proceedings order No.3865/Aa1/2019 dated 09.03.2020 and quash the same as illegal and direct the 4th respondent to remove the document No.177/1997 dated 25.02.1997 in the encumbrance records and issued the same to the petitioner.

For Petitioner : Mr.K.Asok Kumar Ram

For Respondents : Mr.A.K.Manikkam (R1 to R4 & R8)

Special Government Pleader

No appearance (R5 to R7)

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 09.03.2020 and for a consequential direction to the fourth respondent to remove the entry made in the encumbrance certificate pertaining to Document No.177 of 1997 dated 25.02.1997.

2. Heard Mr.K.Asok Kumar Ram, learned counsel appearing for the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader for the respondents 1 to 4 and 8.



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3. The case of the petitioner is that he is the owner of the subject property in S.No.56/2 measuring an extent of 3.14 acres. The further case of the petitioner is that the revenue records also stood in his name. However, during UDR scheme, the patta was issued in favour of the respondents 6 and 7. Both of them did not have any right or title over the property. Taking advantage of the same, they sold the property in favour of the fifth respondent through a sale deed, which was registered as Document No.177 of 1997.

4. The petitioner thereafter made an application before the 8th respondent for rectifying the wrong entry made and the 8th respondent through proceedings dated 16.10.1997 cancelled the patta, which wrongly stood in the name of the fifth respondent.

5. The petitioner made a representation before the 4th respondent for cancelling the entry made in the encumbrance certificate pertaining to Document No.177 of 1997. This request was rejected by the third respondent through proceedings dated 09.03.2020 and the same has been put to challenge in this writ petition.



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6. In the considered view of this Court, the Sub-Registrar cannot directly delete the entry made while registering the sale deed as Document No.177 of 1997. This sale deed has not been put to challenge before any Court or authority and hence, till the sale deed is cancelled in the manner known to law, there is no question of deleting the entry alone in the encumbrance certificate. Infact, the deletion of the entry in the encumbrance certificate will indirectly amount to cancelling the document, which is not within the power and jurisdiction of a Sub-Registrar.

7. In view of the above, this Court does not find any ground to interfere with the impugned proceedings of the third respondent. It is left open to the petitioner to question the sale deed before the competent Court / authority and if ultimately the sale deed registered as Document No.177 of 1997 is cancelled, automatically the entry that was made while registering this document will also be reversed. Except giving this liberty, no further orders can be passed in this writ petition.

8. This writ petition is disposed in the above terms. No costs.

20.12.2023

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



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N.ANAND VENKATESH, J.

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Dated:
20.12.2023