



WP(MD)No.13756 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.12.2023**

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

W.P.(MD)No.13756 of 2021

and

W.M.P.(MD)No.10702 of 2021

A.Muneeshwari

...Petitioner

/Vs./

- 1.The Inspector General of Registration,
Department of Registration, Chennai
- 2.The District Registrar,
Sivagangai District.
- 3.The Sub Registrar,
Office of Sub Registrar,
Manamadurai,
Sivagangai District -627804
- 4.M/s.Gee Ispat Pvt.Ltd.,
Rep. by its Authorized Person,
R.Pramodkumar,
No.54/5/37/B2, Backside to TNEB Office,
Kallikudi Road, Kariyapatti,
Virudhunagar District.
- 5.N.Valli @ Valliammal,
W/o.Natarajan,
Vellur Village, Sirukudi Group,
Idaikattur Post, Manamathurai Taluk,
Sivagangai District.



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6.P.Muthurakku,
S/o. Ponnusamy,
Rajendran Nagar, Sipkaat,
Manamathurai Taluk,
Sivagangai District.

...Respondents

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 Encumbrance Certificate S.No.13 Registration No.6/2018 dt. 23.10.2018, and S.No.14 in Registration No.7/2018 dt. 23.10.2018, registering the order in WP(MD)No.18425/2018 and WMP(MD)No.16302/2018 dt. 24.08.2018 and cancel the same, consequentially directing the 3rd respondent to remove the said registrations from the records of the property in Survey No. 96/4A an extent of 5 Acres 32 Cents in Manampaaki Village, Manampaaki group, Manamathurai Taluk, Sivagangai District, within a stipulated period as fixed by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.K.S.Selvaganesan (R1 to R3)

Additional Government Pleader

Mr.R.Senthilkumar (R4)

No appearance (R5 & R6)

ORDER

This writ petition has been filed challenging the entries that were made in the encumbrance certificate by the third respondent while registering Document Nos.6 & 7 of 2018 dated 23.10.2018 and for a direction to the third respondent to remove such registration.



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2. Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner, Mr.K.S.Selvaganesan, learned Additional Government Pleader for the official respondents and Mr.R.Senthilkumar, learned counsel appearing for the fourth respondent.

3. The fourth respondent had filed a writ petition before this Court in WP(MD)No.18425 of 2018 for a direction to the registration authorities to prosecute the petitioner and another under Sections 82 and 83 of the Registration Act, 1908, on the ground that they have fraudulently dealt with the property belonging to the fourth respondent. This writ petition was dismissed by order dated 24.08.2018 and the relevant portions are extracted hereunder:-

“6.From the facts disclosed in the affidavit filed in support of the writ petition, it appears that there is a dispute between the ownership of the subject property as between the petitioner and the fifth respondent and such a dispute cannot be settled in this Court, which is exercising the extraordinary M/S Gee jurisdiction under Article 226 of the Constitution of India. Although the petitioner has alleged fraud committed by the fourth respondent, whether any fraud has been committed by the fourth respondent has to be established on the basis of the evidence to be adduced before a proper competent civil Court and such fraud cannot be established on the basis of the averments.



7. In any event, the dispute between the petitioner and the fourth and fifth respondents appears to be purely civil and criminal in nature and such dispute cannot be adjudicated before this court in a writ jurisdiction.

8. Be that as it may, it has to be seen that the petitioner has not given any representation to the official respondents, namely, respondents 1 to 3 with regard to the alleged fraud committed by the fourth respondent. In the absence of any demand by the petitioner on the grievances projected in the writ petition, no Mandamus could lie. Therefore, this Court is of the considered view that the writ petition is not maintainable per se and therefore, the same is dismissed. It is however left open to the petitioner to approach the appropriate authority and establish any fraud played by the fourth and fifth respondents in registering the documents by the third respondent. In case any such representation is made, the same shall be looked into by the authority concerned and appropriate orders may be passed on the said representation within a reasonable time.”

4. Pursuant to the above order, the fourth respondent has managed to present this order and the third respondent has also mechanically registered the order passed in the writ petition and writ miscellaneous petition as Document Nos.6 and 7 of 2018.

5. It is not known as to how the third respondent had entertained the registration of the dismissal order passed by this Court in the writ petition. This is a case where there is something more than what meets the eye, the lesser said



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it is better. When genuine decrees of the civil Court are presented for registration, it is not being entertained by the Sub Registrars, by giving one reason or the other. However, a dismissal order passed in a writ petition was entertained by the third respondent and it has been registered as Document Nos. 6 and 7 of 2018 and it is reflected in the encumbrance certificate. It is quite shocking that the order in the writ petition was entertained and registered by the third respondent.

6. This Court has absolutely no hesitation to allow this writ petition as prayed for. There shall be a direction to the third respondent to immediately reserve the entries made in S.Nos.13 and 14 pertaining to Document Nos.6 and 7 of 2018. This exercise shall be completed by the third respondent within a period of two weeks from the date of receipt of a copy of this order.

7. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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N.ANAND VENKATESH, J.

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TO:-

- 1.The Inspector General of Registration,
Department of Registration, Chennai
- 2.The District Registrar,
Sivagangai District.
- 3.The Sub Registrar,
Office of Sub Registrar,
Manamadurai,
Sivagangai District -627804

Order made in
W.P.(MD)No.13756 of 2021

Dated:
20.12.2023