



W.P(MD)No.26331 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26331 of 2022

and

W.M.P.(MD)Nos.20509 and 20510 of 2022

A.Balamurugan

... Petitioner

Vs.

1.The Deputy Registrar,
Administration,
Palani.

2.K.Gurusamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the Impugned proceedings of the 1st respondent in No.3754/E1/ 2021 dated 27.09.2022 and quash the same.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader for R1.
Mr.M.Ramar for R2.



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ORDER

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Heard the learned counsel on either side.

2.The basic facts are not in dispute. The petitioner purchased 1 acre and 30 cents of land in S.No.399/1, Kothaimangalam Village, Palani Taluk from one Chandra. The purchase was made on 24.07.2017. Interestingly, the petitioner's vendor/Chandra was figuring as a defendant in three suits namely, O.S.Nos.320, 324 and 326 of 2016 on the file of the Sub Court, Palani. The second respondent herein figured as plaintiff in O.S.No.326 of 2016. Subsequently on 28.01.2019 in the Lok Adalat, Chandra compromised the matter with the plaintiffs. She accepted their title. Based on the Lok Adalat awards, the plaintiffs moved the first respondent for declaring that the sale deed executed in favour of the writ petitioner was fraudulent. The District Registrar while holding that he cannot cancel the sale deed, passed a restraint order that the petitioner should not alienate or encumber the property. Challenging the said proceeding dated 27.09.2021, the present writ petition has been filed.

3.The learned counsel on either side reiterated their respect contentions.



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4.It is seen that the second respondent and the other two plaintiffs have already filed O.S.No.468 of 2021 on the file of Sub Court, Palani, for declaring that the sale deed obtained by the writ petitioner as null and void. The issue raised in this writ petition can very well be gone into in the said suit. The writ petitioner gives an undertaking that the extent of land purchased by him is 1 acre and 30 cents whereas the disputed land measures only 15 cents. It is not in dispute that the land covered by the aforesaid three suits namely, 320, 324 and 326 of 2016 measures only total extent of 15 cents. The petitioner through his counsel gives an undertaking that he will not alienate or encumber the said 15 cents of land. The said undertaking is recorded. The learned Sub Judge, Palani is directed to dispose of O.S.No.468 of 2021 on merits and in accordance with law within a period of one year from the date of receipt of a copy of this order. All the contentions of the parties are left open. Since the petitioner has given an undertaking, the interest of the second respondent is fully protected. In view of the same impugned order is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

03.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

To:

The Deputy Registrar,
Administration,
Palani.

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