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W.P.Nos.1637 & 3073 of 2021 & 34170 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.1637 & 3073 of 2021 & 34170 of 2023

and

W.M.P.No. 34042 of 2023

W.P.No.1637 of 2021

R.Adilakshmi

.... Petitioner

Vs

1. The District Collector,
Collectorate Office,
Thiruvallur District,
Thiruvallur.

2. Gnanamurthy

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, to direct the respondent to cancel the patta obtained in a fraudulent manner by Gnanamurthy in Ambattur Circle Tiruvallur District, No.62, Soorapattu Village, Old Survey No.190/B1/A and 190/A/A, New Survey No.190/1A/B in Plot No.219 measuring 3200 sq.ft.

W.P.No.3073 of 2021

R.Adilakshmi

.... Petitioner

Vs



W.P.Nos.1637 & 3073 of 2021 & 34170 of 2023

1. The Superintendent Engineer,
Tamil Nadu Electricity Board,
No.4/195, Ambattur Red Hills Road,
Valluvar Nagar, Puzhal.

2. The Assistant Engineer,
Operation and Maintenance,
Puzhal Division,
Puzhal.

3. Gnanamurthy Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, to direct the respondents 1 & 2 to disconnect the electricity connection obtained in a fraudulent manner for the property situated at Ambattur Circle Tiruvallur District, No.62, Soorapattu Village, Old Survey No.190/B1/A and 190/A/A, New Survey No.190/1A/B in Plot No.219 measuring 3200 sq.ft.

W.P.No.34170 of 2023

1. P.Ellammal
2. B.Gnanmorthy Petitioners

Vs

1. The Deputy Inspector,
General of Registration,
Chennai Region.

2. The District Registrar (Administration),
Assistant Deputy Inspector General of Registration,
Chennai North Registration District,
Chennai – 600 104.

3. R.Audhilakshmi



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4. Deepa Neelakandan
Rep. by its Power of Attorney
C.Neelakandan.

5. Sai Ram Gupta Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari by calling for the records relating to Na.Ka.No.6590/A1/2022 dated 01.09.2023 on the file of the first respondent herein confirming the letter No.3340/A5/2022 dated 10.08.2022 on the file of the second respondent herein and quash the same.

In W.P.No.1637 of 2021

For Petitioner : Mr.P.Chandrasekar
For R1 : Mr.E.Vijay Anand
Additional Government Pleader
For R2 : Mr.T.Murugamanickam
Senior Counsel
for Mr.Y.Soloman

In W.P.No.3073 of 2021

For Petitioner : Mr.P.Chandrasekar
For R1 & R2 : Mr.L.Jai Venkatesh
Standing Counsel
For R3 : Mr.T.Murugamanickam
Senior Counsel
for Mr.Y.Soloman

In W.P.No.34170 of 2023

For Petitioner : Mr.T.Murugamanickam
Senior Counsel
for Mr.Y.Soloman
For R1 & R2 : Mr.E.Vijay Anand
Additional Government Pleader
For R3 : Mr.G.Mohan



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COMMON ORDER

W.P.No.1637 of 2021 has been filed for a direction directing the respondent to cancel the patta obtained in a fraudulent manner by the second petitioner in W.P.No.34170 of 2023.

2. W.P.No.3073 of 2021 has been filed for a direction directing the respondents 1 & 2 to consider the representation submitted by the petitioner seeking disconnection of electricity service connection obtained in a fraudulent manner for the subject property by the second petitioner in W.P.No.34170 of 2023.

3. W.P.No.34170 of 2023 has been filed challenging the order passed by the respondents 1 & 2 under Section 68(2) of the Registration Act and look into the correction of book records as the settlement deed and subsequent sale deeds were fraudulently executed and directed the concerned Registrar not to register any document based on the settlement deed and subsequent sale deed in respect of the subject property.



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4. All these writ petitions were filed in respect of the property comprised in S.No.190/B1/1A & 190/A/1 and present R.S.No.190/B1A2 in Plot No.219 admeasuring 3200 sq.ft situated at Ambattur Taluk, Tiruvallur District.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The learned Senior Counsel appearing for the petitioner in W.P.No.34170 of 2023 submitted that the third respondent filed a suit in O.S.No.170 of 2012 before the District Munsif Court, Thiruvottiyur, for declaration declaring that the Settlement Deed dated 30.08.2010 as null and void and the Sale Deed executed by the second defendant, represented by the third defendant, in favour of the fourth defendant, as null and void and a further declaration declaring that the sale deed dated 26.04.2012 executed by the fourth defendant, represented by her power agent Neelakandan, in favour of the third defendant as null and void and for declaration declaring that the Mortgage Deed dated 11.07.2012 executed by the third defendant in favour of the fifth defendant and also for permanent injunction.



7. When the suit is very much pending on the file of the

District Munsif Court, Thiruvottiyur, the third respondent ought not to have approached the second respondent to cancel the two deeds as fraudulent one. The second respondent has no power to cancel those deeds on the date of the application submitted by the third respondent. In fact, only in the year 2021, the provision under Section 77 of the Registration Act came into force which gives power to the second respondent to cancel the documents, which were executed fraudulently. When the Civil Court seized off the matter, the first and second respondents has no power to entertain the application submitted by the third respondent to cancel the documents.

8. A perusal of the order passed by the second respondent reveals that on the application submitted by the third respondent, a detailed enquiry was conducted. During the enquiry, the petitioners were issued notice and they were given an opportunity of hearing. The enquiry reveals that the subject property, comprised in Survey No.190/B1/A and 190/A/1, present Survey No.190/B1A2 Layout Plan L.P.D.M/D.T.P.No.1/75, house plot No.219 admeasuring 3200 sq.ft. situated at Soorapattu Village, Ambattur Taluk, Thiruvallur District,



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originally owned by Nataraja Giramani, Perumalsamy Giramani and Ayyavu Giramani. The third respondent had purchased the subject property by a registered sale deed vide document No.165 of 1979.

9. While being so, one Krishnammal had executed a Settlement Deed in favour of the first petitioner, registered vide Document No.7838 of 2010. In the Settlement Deed, the said Krishnammal stated that the subject property was purchased from her vendors. But she failed to mention the date of execution of deeds and also document numbers. Thereafter, the first petitioner executed power of attorney in respect of the subject property, along with other property, situated in Plot Nos.222 to 229, in favour of the second petitioner. On the strength of the power of attorney, the second petitioner had executed sale deed in favour of one Deepa Neelakandan vide document No.4597 of 2011 through her power of attorney one Neelakandan. Again, the Principal Deepa Neelakadan had executed sale deed in favour of her husband, viz., the power of attorney, vide document No.165 of 2011. Once again the said Deepa Neelakandan, through her power of attorney, had executed sale deed in favour of the second petitioner registered vide document No.5134 of 2012. In turn, the second petitioner had



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mortgaged the said property in favour of one Sairam Gupta for a sum of Rs.5,00,000/- registered vide Mortgage Deed dated 7615 of 2012.

10. Therefore, the second respondent rightly concluded that the said Krishnammal had no title over the property. Without title over the property, the said Krishnammal settled the property in favour of the first petitioner. Thereafter, the first petitioner encumbered the property by various deeds as stated supra. Therefore, the second respondent passed an order under Section 68(2) of the Registration Act.

11. Section 68(2) of the Registration Act confers the power to the second respondent. Accordingly, the second respondent shall have the authority to issue any order consistent with the Registration Act which he considers necessary in respect of any act or omission of any Sub Registrar, subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document has been registered. Accordingly, the second respondent found that the documents which were executed by the petitioners as well as the settlor Krishnammal had no title over the property and as such, directed to correction correcting the book on records and also issue directions to the



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Sub Registrar not to deal with the subject property based on the settlement deed and subsequent sale deeds.

12. Further, the second respondent directed the concerned Sub Registrar that the subject property can be deal with on the basis of the sale deed executed in favour of the third respondent registered vide document No.165 of 1979. It is also seen that the petitioners did not even mention the suit number filed by the third respondent in their grounds of appeal before the first respondent. Further the petitioners did not appear before the second respondent even after receipt of notice, though several opportunities were given by the authority. That apart, the suit filed by the third respondent is not an impediment for the second respondent to conduct enquiry under Section 68 of the Registration Act.

13. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent. Thus, the writ petition in W.P.No.34170 of 2023 is devoid of merits and is liable to be dismissed. Accordingly, W.P.No.34170 of 2023 stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.



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14. In view of the order now passed in W.P.No.34170 of 2023, the respondents in W.P.No.3073 of 2021 are directed to consider the representation submitted by the petitioners seeking disconnection of electricity service connection obtained in a fraudulent manner for the subject property by the third respondent, based on the orders passed by the respondents 1 and 2 herein and confirmed by this Court, after issuance of notice to the third respondent, and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. It is also made clear that the pendency of the civil suit is not an impediment for the respondents 1 & 2 to consider the representation submitted by the petitioner on merits and in accordance with law.

15. In view of the order passed in W.P.No.34170 of 2023, the first respondent in W.P.No.1637 of 2021 is directed to consider the representation submitted by the petitioner seeking cancellation of patta obtained in a fraudulent manner by the second respondent in respect of the subject property, based on the fraudulent documents, as per the order passed by the respondents 1 & 2 in W.P.No.34170 of 2023, issue notice to the second respondent and give an opportunity of hearing and pass



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orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

16. With the above directions, W.P.Nos.1637 & 3073 of 2021 stand disposed of. Consequently, connected miscellaneous petition is closed. No costs.

10.06.2024

Internet : Yes
Index : Yes/No
Neutral Citation : Yes/No
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To

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Thiruvallur District,
Thiruvallur.

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Chennai Region.

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G.K.ILANTHIRAIYAN, J.

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5. The District Registrar (Administration),
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