



W.P.No.2304 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 27..06..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.2304 of 2023

K.Padmavathy

..... Petitioner

-Versus-

1.The Sub Registrar,
Oulgarpet,
Puducherry.

2.Uma Raveeswaran

3.Mrs.S.Dhanalakshmi

[3rd respondent was impleaded as per order of this court
dated 27.06.2024 made in W.P.No.14091 of 2024]

..... Respondents

Petition filed under Article 226of the Constitution of India, praying to
issue a writ of mandamus directing the 1st respondent to release the sale dee
dated 27.09.2022 and presented on 28.09.2022 and kept as pending Document
No.486/2022 on the file of the 1st respondent.



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For Petitioner *Mr.S.C.Viswanth*

For Respondent (s) : *Mr.M.Nirmalkumar,*
 Government Advocate
 (Puducherry) for R1
 Mr.K.Chozhan for R2
 Mr.V.S.Senthil Kumar for R3

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the 1st respondent to release the sale deed dated 27.09.2022 and presented on 28.09.2022 and kept as pending Document No.486/2022 on the file of the 1st respondent.

2. Heard both sides.

3. According to the petitioner, she purchased a property from the 2nd respondent on 28.09.2022 for a valid sale consideration and when the sale deed was presented for registration, the 1st respondent kept the sale deed as pending document No.486 of 2012 without assigning any reason. The petitioner was given to understand that document was kept pending on the basis of a protest petition.



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4. However, the fact remains that 3rd respondent had already filed a civil suit in O.S.No.786 of 2002 on the file of the II Additional District Munsif, Puducherry, for permanent injunction in respect of the property which is subject matter of the document in question against the 2nd respondent herein and, by judgement and decree dated 15.12.2017, while dismissing the suit, the learned II Additional District Munsif held that the plaintiff and defendant have not established their respective title to the suit property therefore, suit for injunction is not maintainable and directed the parties to file appropriate suit for declaration of title in respect of the subject property. Aggrieved by the dismissal of her suit the 3rd respondent preferred an appeal in A.S.No.20 of 2019 on the file of the learned Additional Sub Judge, Puducherry and the learned Additional Sub Judge by judgement and decree dated 16.10.2009 dismissed the appeal and thereby confirmed the decree and judgement of the learned II Additional District Munsif, Puducherry in O.S.No.786 of 2002. It seems that there was no further appeal preferred by the 3rd respondent and thus, the judgement of the learned Additional District Munsif, Puducherry had become final.

5. When the competent civil court had already decided the rights of the parties based on oral and documentary evidence and held that title to the



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subject property had not been established, based on some document, encumbrance is sought to be created. No doubt, the registering authority has no power to go into the question of title but at the same time, when the civil court had already decided the rights of parties, such findings cannot be lightly taken by the registering authority. Therefore, having regard to the facts and circumstances of the case and the legal position, there cannot be any positive direction given to the 1st respondent as sought in the writ petition and it is for the petitioner or his vendor to establish his/their title to the subject property before the civil court having jurisdiction in the manner known to law.

In the result, the writ petition is dismissed however, with the above observations.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

27..06..2024

To

1.The Sub Registrar,
Oulgarpet,
Puducherry.



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N.SATHISH KUMAR.J.,

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