



WP.No.20022 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.20022 of 2023

Kumarasamy

.. Petitioner

Versus

1.The District Collector
Thirupathur District
Thirupathur

2.The District Registrar
District Registration Department
Thirupathur District
Thirupathur

3.The Sub Registrar Office
Vaniyambadi Taluk
Thirupathur District
Thirupathur

4.The Tahsildar
Vaniyambadi Taluk
Thirupathur District
Thirupathur

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 to 3 to remove the false entry of fake sale deed document No.2683/2019 dated 25.04.2019 from the official website of the 2nd and 3rd respondent.



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WEB COPY

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.P.Anandhakumar
Government Advocate

ORDER

This writ petition has been filed seeking to direct the respondents 2 and 3 to remove the entries made in the encumbrance certificate with regard to the suit schedule properties.

2. The suit properties originally owned by one Govindaraj, he was in exclusive possession and enjoyment of the same. He had two daughters namely Rajakumari and Chellammal. After the death of Govindaraj, the two daughters inherited the properties. Further, one Kannammal, Ramesh and Malarkodi had filed a suit in O.S.No.235/1995 setting up their title over the property. The suit in fact filed for declaration and injunction was dismissed by decree and judgment dated 10.10.2010 which has been confirmed in appeal in A.S.No.29/2010 on 25.04.2014. Thereafter, the said Rajakumari and Chellammal had sold the property to the writ petitioner in the year 2019. Subsequently, the entries have been made by the third respondent on the basis of certain alleged complaints by some of the rival claimants who originally filed a suit and orders have been passed by the District Registrar to the effect that no



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further documents whatsoever to be registered in respect of the property, it is also recorded as if the legal heir certificate produced at the time of registration appears to be fake. Hence, the writ petition is filed.

3. Counter has been filed by the third respondent to the effect the children born through the 2nd and 3rd wife of the children preferred a complaint dated 29.04.2019 complaining that the document has been registered the sale deed on the basis of a fake legal heir certificate suppressing their birth. The District Registrar, Vellore has conducted an enquiry under provisions of Section 68(2) of the Registration Act and passed the impugned order directing the complainant to seek remedy in the civil court besides he has also directed the Sub-Registrar not to carry out any registration till the disposal of the suit on the ground since the sale deed has been registered on the basis of fake legal heir certificate. Hence, according to them orders have been in view of the powers vested under Section 68(2) of the Registration Act.

4. The learned counsel for the petitioner would submit that the complainant who is said to have given a complaint had already filed a suit in O.S.No.235/1995 which has also reached finality. Thereafter, the defendants 1 and 2 in the said suit who are the legal heirs of one Govindaraj has sold the



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property in the year 2019 to the writ petitioner. Such being a position, merely on the basis of subsequent complaint preferred by the so-called children of the 2nd and 3rd wife of the Govindaraj, the orders have been passed without any authority.

5. Heard both sides and perused the entire materials placed on record.

6. At the outset, the very counter filed by the respondent indicate that District Registrar assumed the power under Section 68(2) of the Registration Act and on careful perusal of the said provisions makes it clear that it is nothing but superintendence power and control over the Sub Registrar concerned.

7. That apart when the property is already registered, such a blanket order cannot be passed restraining the owner enjoying the property, when the complainant had already lost in the O.S.No.235/1995, the rights have been already decided conclusively, merely on the basis of some complaint, the registering authorities cannot assume the role of appellate jurisdiction to undue the Civil Court finding.



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8. Such view of the matter, the Order passed by the District Registrar in making entries in the encumbrance certificate is liable to be struck off and the same is set aside. The respondents 2 and 3 are directed to remove the entries in the encumbrance certificate with regard to the suit schedule properties within a period of one month from the date of receipt of a copy of this Order.

9. With the above direction, this writ petition stands allowed. No costs.

15.04.2024

dhk

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

To

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N. SATHISH KUMAR, J.

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4.The Tahsildar
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