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WP.No.26532 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.26532 of 2023

Rathna Mazumdar

Petitioner

Vs

1. The Inspector General of Registration, Chennai-28

2. The Sub Registrar, Royapettah, Chennai-14 Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 2nd Respondent to consider the representation of the Petitioner dated 17.07.2023 in the light of the judgement and decree passed in OS.No.3404 of 2014 dated 25.11.2010, by cancelling the cancellation of the settlement deed in Document No.51 of 2010, dated 21.01.2010 and in OS.No.1074 of 2010, dated 10.06.2011, by cancelling the mortgage deed in Document NO.1292 of 2009 dated 09.12.2009 within a time frame.

For Petitioner : Mr.D.Nagaesh Babu

For Respondents : Mr.L.S.M.Hasan Fizal-AGP

ORDER

1. This Writ Petition is filed to issue a Writ of Mandamus to direct the 2nd Respondent to consider the representation of the Petitioner dated 17.07.2023 in the light of the judgement and decree passed in OS.No.3404 of 2014 dated 25.11.2010, by cancelling the cancellation of the settlement deed in



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Document No.51 of 2010, dated 21.01.2010 and in OS.No.1074 of 2010, dated 10.06.2011, by cancelling the mortgage deed in Document NO.1292 of 2009 dated 09.12.2009 within a time frame.

2. It is the case of the Petitioner that the suit property was settled in favour of her husband by the Petitioner's mother in law and thereafter, her husband settled the property in favour of the Petitioner. After executing the settlement deed in favour of her son, the mother in law has unilaterally cancelled the settlement deed and executed a mortgage deed and therefore, two suits have been filed by the Petitioner and her husband in OS.Nos.3404 of 2010 and 1074 of 2010 before the VIII Assistant City Civil Court, Chennai. Both the suits were decreed in favour of the Petitioner and her husband, holding that the unilateral cancellation of the settlement deed is not valid and that the consequential mortgage deed is also not valid and hence, the Petitioner gave a representation to the Registering Authority to cancel the entries based on the judgement and decrees of the Civil Court and it is not considered so far.
3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.
4. This Court is of the view that the entries in the encumbrance certificate are based on the registered documents and they always remain in the document to inform the public. If any such document has been annulled or cancelled, such entries relating to cancellation by the judgement and decree of the



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Court will be entered in the encumbrance certificate. If such entry is made with regard to the court decrees, the previous entry will become insignificant. In such view of the matter, as long as there is no specific provisions under the Registration Act or Rules to remove the entries, let the Petitioner present the judgement and decrees made in OS.Nos.3404 of 2010 and 1074 of 2010 before the Registering Authority and register the same. When the copy of the judgement and decree is presented for registration, let the Sub Registrar register the same without going into the limitation period since the courts have already held that the limitation contemplated under Section 23 of the Act will not apply to the court decrees and also without insisting stamp duty.

5. With the above directions, this Writ Petition is disposed of. No costs.

08.07.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To

1. The Inspector General of Registration, Chennai-28
2. The Sub Registrar, Royapettah, Chennai-14



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N.SATHISH KUMAR, J.

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