



W.P.No.34448 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 34448 of 2023

and

W.M.P.No.34364 of 2023

E.Manigandaswamy

... Petitioner

versus

- 1.The Registrar of Registration,
Registrar Office, Ariyalur District.
- 2.The Sub Registrar of Registration,
Registrar Office, Ariyalur District.
- 3.The Revenue Divisional Officer,
Udayapalayam Taluk, Ariyalur District.
- 4.The Tahsildar,
Sendurai Taluk, Ariyalur District.
- 5.OVIYA

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6.RAMASAMY

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the respondents to cancel the sale deed registered by 2nd respondent vide Registration No. 2476 of 2023 dated 24.07.2023 in favour of the 6th respondent in respect of lands situated in S.No.6/4H, 6/5 and 6/6 measuring an extent of 0.48.0 , 0.22.50 and 0.39.00 Ares respectively and the total extent of land is admeasuring at about 1.09.50 Ares in Ponparappi Kudikadu Village, Sendurai Taluk, Ariyalur district as null and void and direct the third respondent to update the patta in the name of the petitioner from the name of his father in respect of lands situated in S.No. 6/4H, 6/5 and 6/6 measuring an extent of 0.48.0 , 0.22.50 and 0.39.00 Ares respectively and the total extent of land is admeasuring at about 1.09.50 Ares in Ponparappi Kudikadu Village, Sendurai Taluk, Ariyalur District.

For Petitioner : Mr.S.Ramachandran

For Respondents : Mr.R.Neethi Perumal,
Government Advocate, for R1 and R2

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Mr.S.J.Mohamed Sathik
Government Advocate, for R3 and R4
R5 - No appearance
Mr.R.Suryanarayanan, for R6

ORDER

This writ petition has been filed seeking for issuance of a writ of mandamus, directing the respondents to cancel the sale deed registered by the second respondent vide Registration No. 2476 of 2023 dated 24.07.2023 in favour of the sixth respondent in respect of lands situated in S.Nos.6/4H, 6/5 and 6/6, measuring an extent of 0.48.0, 0.22.50 and 0.39.00 Ares respectively and the total extent of land ad-measuring to an extent of 1.09.50 Ares in Ponparappi Kudikadu Village, Sendurai Taluk, Ariyalur District as null and void and direct the third respondent to update the Patta in the name of the petitioner in respect of lands situated in S.Nos.6/4H, 6/5 and 6/6 measuring an extent of 0.48.0, 0.22.50 and 0.39.00 Ares respectively and the



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total extent of land admeasuring an extent of 1.09.50 Ares in Ponparappi Kudikadu Village, Sendurai Taluk, Ariyalur District.

2. The case of the petitioner is that one Dhanakodi filed a suit for partition in O.S.No.343 of 2003 on the file of the Sub-Court, Ariyalur, against the petitioner's father and the suit was partially decreed in favour of Mrs.Dhanakodi in respect of lands situated in Survey Nos.1/2A, 1/2G, 6/4A, 11/1, 11/4, 18/4A, 7/19B, 7/19C, 7/1, 7/2, 52/4, 7/3B, 7/4, 7/10, 7/12, 7/14, 53/7A, 67/1, 260/1 and 69/1B in Ponparappi Kudikadu Village, Sendurai Taluk and the suit was dismissed in respect of lands in S.Nos.6/4H, 6/5, 6/6, 69/4, 18 and 7C in Ponparappi Kudikadu Village, Sendurai Taluk. Thus, the petitioner's father became the exclusive owner of the lands situated in S.Nos.6/4H, 6/5, 6/6, 69/4, 18 and 7C in Ponparappi Kudikadu Village, Sendurai Taluk. That being so, the fifth respondent tried to sell the lands in S.Nos.6/4H, 6/5, 6/6, 69/4, 18 and 7C to the sixth respondent. Hence, the



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petitioner made a representation dated 12.07.2023 to the second respondent with relevant documents and requested to cancel the registration of the lands situated in S.Nos.6/4H, 6/5, 6/6, 69/4, 18 and 7C in Ponparappi Kudikadu Village, Sendurai Taluk, however, the second respondent without verifying the documents registered the sale deed executed by the fifth respondent in favour of sixth respondent vide Document No.2476 of 2023 dated 24.07.2023. Aggrieved by the same, the petitioner submitted a representation to the first respondent to cancel the impugned sale deed, but no action has been taken by the first respondent and hence, the petitioner is before this Court.

3. Mr.S.Ramachandran, learned counsel for the petitioner submitted that without having any right and title over the properties in S.Nos.6/4H, 6/5, 6/6, 69/4, 18 and 7C, the said Dhanakodi executed the settlement deed in favour of one Gangaikondan, who is fifth respondent's brother and thereafter, the said Gangaikondan, sold the subject properties in favour of



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the fifth respondent, who in turn, executed a sale deed in favour of the sixth respondent. Therefore, respondents 5 and 6 did not have a valid title over the subject properties. The learned counsel further submitted that even at the time of registration of the document itself, the petitioner has informed about the same, but the second respondent, without considering the same, registered the said document.

4. Mr.R.Neethi Perumal, learned Government Advocate for respondents 1 and 2 submitted that there is no provision in the Registration Act, 1908 [hereinafter 'said Act'] to make cancellation of a document based on the photostat copy of the decree *suo motu* by the Registering Officer. He further submitted that Section 31(2) of the Specific Relief Act, 1963 as well as Rule 89 of the Civil Rules of Practice mandates that every Civil Court which passed a decree cancelling a document has to forward a copy of such decree to the jurisdictional Sub-Registrar to enable him to file in Book but in



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the present case, no such copy was given. Ultimately, the petitioner ought to have presented the certified copy of the decree for registration as per Proviso to Section 23 of the said Act. Hence, the contention of the petitioner is not sustainable in law and the petitioner has to proceed with the pending civil suit in second appeal before this Court.

5. Mr.R.Suryanarayanan, learned counsel for sixth respondent by referring to the counter affidavit submitted that the petitioner claims right over the property vide a preliminary decree dated 28.02.2008 made in O.S.No.343 of 2003 but he has not taken any steps to execute the decree and partition their shares and further the said decree was not reflected in the encumbrance and therefore, the petitioner's claim that the decree would bind him is not maintainable. He further submitted that the sixth respondent being a *bona fide* purchaser of the property for the value and having purchased the property with due consideration and in compliance of the



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Registration Act, 1908 and Indian Stamp Act, 1899, the prayer seeking to cancel the sale deed cannot be sustained. He further submitted that without challenging the title document, the petitioner's claim to cancel the sale deed executed in favour of sixth respondent is nothing but an abuse of process of law and therefore, the present writ petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. Once the document said to have been executed by a person, who do not have right and title, it is for the respondents to conduct enquiry into the matter and pass appropriate orders on merits and in accordance with law. Therefore, the second respondent is directed to conduct enquiry into the matter and pass appropriate orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner and respondents 5 and 6 as well as interested parties/rival claimants if any, as the case may be. Such exercise shall be completed within a period of six weeks from the date



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of receipt of a copy of this order.

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8. With the above direction, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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