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W.P. No.34300 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.34300 of 2017

and

W.M.P. Nos.38172 of 2017 and 168 of 2018

1. V. Swayam Prabha
2. V. Jayavel,
3. V. Sakthivel
4. Eswaravalli
Rep. By Power Agent
S.L. Arokia Swamy

... Petitioners

Versus

1. The Inspector General of Registration,
Mylapore,
Chennai – 600 028.

2. Assistant Inspector General of Registration,
Chennai (South),
Saidapet,
Chennai – 600 015.

3. Joint I Sub Registrar,
Chennai (South), Saidapet,
Chennai – 600 015.

4. Dhanalakshmi Ammal

5. Nrimala

6. Purushothaman,

7. Bhuvaneswari



W.P. No.34300 of 2017

WEB COPY

8. Indira

9. Punitha

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to cancel the document No.636 of 2003 on the file of 3rd respondent by making entries against the same expressing that said Document is cancelled due to defective registration.

For Petitioners
For Respondents

: Mr.P.G. Thiyagu
: Mr.T. Chezhiyan
Addl. Govt. Pleader for R1 to R3
R4 – Not ready in notice
R5 to R9 – No appearance

ORDER

This writ petition has been filed for Mandamus seeking for a direction to the respondents to cancel the document No.636 of 2003 on the file of 3rd respondent by making entries against the same expressing that said Document is cancelled due to defective registration.

2. Heard the learned counsel on both sides and perused the materials placed on record.

3. According to the petitioners, the subject property viz., vacant land around 69 cents in Ekkadu Thangal, Chennai was purchased by Vasudevan



W.P. No.34300 of 2017

(1st petitioner's husband) from the predecessor-in-title viz., Balakrishna Naicker by way of a valid sale consideration. Further it is stated that 1st petitioner is the wife of K. Vasudevan and the petitioners 2 to 4 are the two sons and daughter born to them. But on the other hand, the legal heirs of the predecessor-in-title as well as the subsequent purchasers claimed right over the same property. Thereafter, the said Vasudevan (1st petitioner's husband), initially filed a suit viz., O.S. No.7972 of 1983 for Specific performance of Sale Agreement, which was decreed in his favour in respect of the said property. Pursuant to the same, he filed E.P. No.985 of 1987 before the City Civil Court and thereafter, Sale Deed was registered as document No.958 of 1988 on 02.08.1988 at the office of the 3rd respondent.

4. In the meanwhile, it is further averred that the defendants in O.S. No.7972 of 1983, without fully prosecuting their case in the Executing Court, sold the property to other persons. While so, the defendants, who are the legal heirs of the pre-decessor-in-title filed First Appeal viz., A.S. No.677 of 1988 before the XI Additional City Civil Court, against the said decreetal order in O.S. No.7972 of 1983 and in the said First Appeal, the subsequent purchasers were also impleaded. But the said First Appeal was dismissed and the decreetal order in O.S. No.7972 of 1983 was confirmed.

Aggrieved over the judgment and decree passed by the XI Additional City



W.P. No.34300 of 2017

Civil Court in A.S. No.677 of 1988, preferred two Second Appeals viz., S.A. No.1115 of 1990 and 1119 of 1990. This Court by its common judgment, dated 17.10.2001 allowed the two Second Appeals, and which resulted against Vasudevan, who was arrayed as one of the respondents in the S.As. referred to supra. Such being the position, all of a sudden, during the month of August 2006, it was intimated that the SLP filed by Vasudevan against the two S.A.s were dismissed by the Hon'ble Apex Court on 19.08.2002 in S.L.P. Nos.12514-12515 of 2002. Thereafter, it came to light that a Document No.636 of 2003 was executed on 10.01.2003 by the 3rd respondent by making entries in the appropriate register.

5. Further, it was stated by the petitioners that due to ill-health of Vasudevan (1st petitioner's husband), he had not proceeded further in the above matter subsequent to passing of judgment in the Second Appeal and according to the petitioners by way of forged documents by other respondents in the said S.A.s, it was alleged that SLP was preferred by Vasudevan. Later, on 04.05.2007, the 1st petitioner's husband, viz., Vasudevan died leaving behind the petitioners herein as his Legal Heirs. Subsequently, the 1st petitioner filed W.P. (Civil) No.363 of 2008 before the Hon'ble Supreme Court. Upon hearing, the said W.P. (Civil) No.363 of 2008 was disposed of on 10.04.2013 and thereby liberty was granted to the



W.P. No.34300 of 2017

petitioner therein to take necessary legal action against all concerned in accordance with law. In such circumstances, the petitioners are taking steps to set aside the order passed in SLP Nos.12514 & 12515 of 2002. Later, the petitioners came to know that based on the aforesaid order passed in SLP Nos.12514 & 12515 of 2002, as well as based on the registration of Document No.636 of 2003 by the 3rd respondent, some of the respondents are initiating steps to mortgage the subject property. Hence, this writ petition has been filed with the aforesaid prayer.

6. Learned counsel for the petitioners fairly submitted that the issue was already decided by this Court in S.A. Nos.1115 of 1990 and 1119 of 1990, dated 17.10.2001 and the petitioners are taking steps to cancel the registration of Document No.636 of 2003 by the 3rd respondent. Further, it is stated that as against the order in W.P. (Civil) No.363 of 2008, a writ appeal was filed and the same is pending. In view of the same, he prays for issuance of appropriate directions in this regard.

7. Per contra, Mr.T. Chezhiyan, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as of now, the order passed in SLP Nos.12514 & 12515 of 2002 is in force. Since, there are several disputed question of facts involved, the only remedy available to the petitioners is to approach the appropriate forum, either Civil or Criminal Court. Hence, he prays for dismissal of this writ petition.



W.P. No.34300 of 2017

8. On a careful perusal of records as well as considering the aforesaid submissions, it is clear that the petitioners have to redress their grievances either through Civil Court or Criminal Court. Since, there are disputed questions of fact involved, which cannot be decided under Article 226 of the Constitution of India, the prayer sought for in this writ petition is not maintainable.

9. In view of the aforesaid reasonings, this Court is not inclined to grant the prayer sought for in this writ petition and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, liberty is granted to the petitioners to work out the remedy in the manner known to law.

18.09.2024

Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To
1. The Inspector General of Registration,
Mylapore,
Chennai – 600 028.

2. The Assistant Inspector General of Registration,

<https://www.mhc.tn.gov.in/judis>



W.P. No.34300 of 2017

Chennai (South),
Saidapet,
Chennai – 600 015.

3. The Joint I Sub Registrar,
Chennai (South), Saidapet,
Chennai – 600 015.

M.DHANDAPANI, J.

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W.P. No.34300 of 2017

W.P. No.34300 of 2017

18.09.2024