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WP.Nos.35034 & 35035 of 2024

In the High Court of Judicature at Madras

Dated : 22.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition Nos.35034 & 35035 of 2024

Mr.S.Rekhchand

...Petitioner in
WP.No.35034
of 2024

Mrs.Lathakumari

...Petitioner in
WP.No.35035
of 2024

Vs

1.The District Registrar,
Chennai Division, Chennai.

2.The Sub-Registrar,
Registration Office of
Kodambakkam, 100 Ft. Road,
Jawaharlal Road, Arumbakkam,
Chennai-106.

3.Siddhardh Galada

...Respondents
in both WPs

PETITIONS under Article 226 of The Constitution of India praying
for the issuance of

(i) a Writ of Mandamus directing the second respondent to
remove the document entry highlighting the ex parte decree and
judgment in O.S.No.7030 of 2015 dated 12.7.2016 on the file of the
13th Assistant City Civil Court, Chennai in Doc.No.3588 of 2016 dated



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31.8.2016 on the file of the second respondent from the encumbrance certificate regarding the property in plot No.1A, Block No.12, 100 Feet Jawaharlal Road, Arumbakkam Village, Chennai-106 comprised in old Survey No.101/5, T.S.No.7/3 Part, new T.S.No.7/26 measuring an extent of 1,400 sq.ft. based upon the petitioner's representation dated 03.8.2024 (WP.No.35034 of 2024); and

(ii) a Writ of Mandamus directing the second respondent to remove the document entry highlighting the ex parte decree and judgment in O.S.No.7030 of 2015 dated 12.7.2016 on the file of the 13th Assistant City Civil Court, Chennai in Doc.No.3588 of 2016 dated 31.8.2016 on the file of the second respondent from the encumbrance certificate regarding the property in plot No.4A, Block No.12, 100 Feet Jawaharlal Road, Arumbakkam Village, Chennai-106 comprised in old Survey No.101/5, T.S.No.7/3 Part, new T.S.No.7/26 measuring an extent of 1,200 sq.ft. based upon the petitioner's representation dated 03.8.2024 (WP.No. 35035 of 2024).

For Petitioner in
both the WPs : Ms.M.Akila

For R1 & R2 in
both the WPs : Mr.P.Harish, GA

COMMON ORDER

W.P.No.34034 of 2024 has been filed seeking to issue of a Writ of Mandamus directing the second respondent to remove the document entry highlighting the ex parte decree and judgment in O.S.No.7030 of 2015 dated 12.7.2016 on the file of the 13th Assistant



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City Civil Court, Chennai in Doc.No.3588 of 2016 dated 31.8.2016 on the file of the second respondent from the encumbrance certificate regarding the property in plot No.1A, Block No.12, 100 Feet Jawaharlal Road, Arumbakkam Village, Chennai-106 comprised in old Survey No.101/5, T.S.No.7/3 Part, new T.S.No.7/26 measuring an extent of 1,400 sq.ft. based upon the petitioner's representation dated 03.8.2024.

2. W.P.No.35035 of 2024 has been filed seeking to issue a Writ of Mandamus directing the second respondent to remove the document entry highlighting the ex parte decree and judgment in O.S.No.7030 of 2015 dated 12.7.2016 on the file of the 13th Assistant City Civil Court, Chennai in Doc.No.3588 of 2016 dated 31.8.2016 on the file of the second respondent from the encumbrance certificate regarding the property in plot No.4A, Block No.12, 100 Feet Jawaharlal Road, Arumbakkam Village, Chennai-106 comprised in old Survey No.101/5, T.S.No.7/3 Part, new T.S.No.7/26 measuring an extent of 1,200 sq.ft. based upon the petitioner's representation dated 03.8.2024.

3. Heard the learned counsel appearing for the respective petitioner and the learned Government Advocate accepting notice for



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respondent 1 and 2 in both the writ petitions.

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4. The case of the petitioners is as follows :

(i) The petitioners are husband and wife. The property in plot No.1A was purchased by the husband and the property in plot No.4A was purchased by the wife under two separate registered sale deeds dated 16.7.1986 vide doc.Nos.2342 and 2343 of 1986 on the file of the Sub-Registrar, Kodambakkam from one Mr.C.Venkatesan and one Mrs.Krishnammal, who are none other than husband and wife. After purchase, they also got the entire revenue records mutated in their names and have been in possession and enjoyment of both the properties ever since the date of purchase.

(ii) All of a sudden, the third respondent trespassed into the said properties of the petitioners on 24.8.2021 along with around 60 persons. Pursuant to that, the petitioner - husband also lodged a criminal complaint before the police authorities. Thereafter, the petitioners were informed that the third respondent had obtained an ex parte decree on 12.7.2016 in O.S.No. 7030 of 2015 on the file of the 13th Assistant Judge, City Civil Court, Chennai. Subsequently, the petitioners obtained the certified copies of the documents submitted by the third respondent before the police officials and the documents filed along with the plaint before the Civil Court.

(iii) On a perusal of documents, the petitioners came to know



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that the documents have been fabricated with an intent to grab the said properties of the petitioners. The third respondent traced his title through a settlement deed dated 20.3.2006 registered as doc.No.1225 of 2006 on the file of the same Sub-Registrar purported to have been executed by one Mrs.Chellammal in favour of her daughter - one Mrs.Deivakani (a) Kanniammal by describing the said properties as her ancestral properties in the said settlement deed. Based upon the said settlement deed, the third respondent alleged to have purchased the said properties under a registered sale deed dated 16.3.2012 bearing doc.No.1668 of 2012 on the file of the same Sub-Registrar from the said Mrs.Krishnammal, the said Mrs.Chellammal and the said Mrs.Deivakani (a) Kanniammal.

(iv) The said sale deed dated 16.3.2012 contained a recital that the said Mrs.Krishnammal sold the properties to the said Mrs.Chellammal under an unregistered sale deed dated 27.8.1982. Thereafter, the third respondent filed the said suit in O.S.No.7030 of 2015 before the 13th Assistant Judge, City Civil Court, Chennai against the petitioners, the said Mrs.Krishnammal, the said Mrs.Chellammal, the said Mrs.C.Deivakani (a) Kanniyammal and the Sub-Registrar, Kodambakkam to declare the sale deeds dated 16.7.1986 executed in favour of the respective petitioner as null and void and it was decreed ex parte on 12.7.2016. After obtaining the said ex parte decree, the



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third respondent managed to make an entry in the encumbrance certificate through doc.No.3588 of 2016 dated 31.8.2016.

(v) On coming to know about the said ex parte decree dated 12.7.2016, the petitioners filed an interlocutory application to set aside the said ex parte decree in I.A.No.4 of 2024 in O.S.No.7030 of 2015 on the file of the 13th Assistant Judge, City Civil Court, Chennai. The petitioner - husband also lodged a complaint with the first respondent on 15.12.2020 with reference to the fabricated documents and to initiate proceedings as against the third respondent. Further, the first respondent, by order dated 30.4.2021, directed the petitioner - husband to get thier grievance redressed by approaching the appropriate court.

(vi) As against the said order dated 30.4.2021, the petitioner - husband filed an appeal on 27.7.2021 before the Deputy Inspector General of Registration, Chennai Region, who, by order dated 01.9.2022, rendered a finding that the matter could not be decided as per Section 68(2) of the Indian Registration Act and that the petitioner - husband has to approach the civil court.

(vii) The petitioner - husband also filed a criminal complaint on 29.9.2022 in Crime No.206 of 2022 on the file of the Central Crime Branch, (Team-1) Chennai citing land grabbing against the said Mrs.Krishnammal, the said Mrs.Chellammal, the said Mr.Deivakani (a)



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Kanniammal, one Mr.Kalanjiyam, who is the power agent and the third respondent. On the basis of this first information report, a charge sheet was filed before the Metropolitan Magistrate Court for Trial of Land Grabbing Cases-II, Allikulam, Chennai in C.C.No.145 of 2022. Pending the above proceedings, the third respondent filed CrI.O.P.No. 1541 of 2023 before this Court seeking to quash the charges levelled against him. Before this Court, he undertook that he would cancel the sale deed bearing doc.No.1668 of 2012 dated 16.5.2012 and also withdraw the suit in O.S. No.7030 of 2015 on the file of the 13th Assistant Judge, City Civil Court, Chennai. Accordingly, by way of a deed of cancellation dated 22.3.2024, he cancelled the said sale deed dated 16.5.2012 in doc.No. 1668 of 2012, under which, he was stated to have purchased the said properties and it was registered on the file of the Sub-Registrar, Kodambakkam.

(viii) Based on the said undertaking, the said Criminal Original Petition was allowed on 27.3.2024 and the proceedings in C.C.No.145 of 2022 on the file of the Metropolitan Magistrate Court for Trial of Land Grabbing Cases-II, Allikulam, Chennai was quashed in so far as the third respondent was concerned. Thereafter, the third respondent had also withdrawn the suit in O.S.No.7030 of 2015 on 16.4.2024.

(ix) Therefore, it is the contention of the petitioners that once the said suit is withdrawn and a registered deed of cancellation was



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executed, the encumbrance has to be corrected and the entry regarding the ex parte decree should be removed from the encumbrance certificate in respect of the said properties. Though they had made an attempt to get the entry deleted by the third respondent himself, he refused to do so. Hence the writ petitions.

5. The offending entry in the encumbrance certificate is that the third respondent obtained a decree in respect of the said properties. However, in the light of the subsequent developments, the third respondent had not only withdrawn the said suit, but also cancelled the sale deed, under which, he purchased the said properties.

6. In the light of the withdrawal of O.S.No.7030 of 2015 on the file of the 13th Assistant Judge, City Civil Court, Chennai on 16.4.2024 by the third respondent - plaintiff himself as well as the cancellation of the sale deed dated 16.5.2012 in Doc.No.1668 of 2012 by the third respondent through the deed of cancellation dated 22.3.2024 vide Doc.No.1264 of 2024 on the file of the Sub-Registrar, Kodambakkam, the writ petitions are allowed and the second respondent is directed to consider the individual representations of the petitioners dated 03.8.2024 and delete the offending entry in the encumbrance certificate with regard to the properties in plot Nos.1A and 4A, Block



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No.12, 100 Feet Jawaharlal Road, Arumbakkam Village, Chennai-106 comprised in old Survey No.101/5, T.S.No.7/3 Part, new T.S.No.7/26 measuring an extent of 1,400 sq.ft and 1,200 sq.ft. respectively or in the remarks column against the said documents, state that the deed has been cancelled vide deed of cancellation dated 22.3.2024 in doc.No.1264 of 2024, with a period of four weeks from the date of receipt of a copy of this order. No costs.

22.11.2024

To

- 1.The District Registrar,
Chennai Division, Chennai.
- 2.The Sub-Registrar,
Registration Office of
Kodambakkam, 100 Ft. Road,
Jawaharlal Road, Arumbakkam,
Chennai-106.

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P.T.ASHA,J

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