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W.P.No.35776 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.35776 of 2024
and
W.M.P.No.38646 of 2024

Mr.I.Kanniah,
Represented by his registered Power Agent,
Mr.Ajmir Khan,
No.5/1128-23, Pandian Nagar,
Yagappa Nagar Extension,
Madurai.

... Petitioner

Vs.

1. The District Registrar (South) Chennai,
District Registrar's Office,
Integrated Building Offices of the
Commercial Taxes and Registration Department,
Fanepat, Nandanam,
Chennai – 35.

2. The Sub-Registrar,
Velachery Sub Registrar's Office,
No:38, 3rd Main Road,
Jagannathapuram, Velachery,
Chennai – 600 042.

3. The Assistant Commissioner (ST),
Park Town Assessment Circle,
Commercial Taxes Department,
Integrated Commercial Taxes Building,
No:32, Elephant Gate Bridge Road,
Chennai – 600 003.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the 2nd respondent to cancel the entry of encumbrance created in CO/Velachery/Book I/17/2024 dated 02.08.2024 by the Sub Registrar Velachery, with respect to the property of the Petitioner bearing Plot No: 1066 in RAM NAGAR LAYOUT, Velachery, measuring 4800 Sq.ft in Sy.Nos:119 and 123 (as per Patta No.19521 – Sy Nos:119/29, 123/56) of Madipakkam Village, Sholinganallur Taluk, presently Chengelpet District.

For Petitioner : M/s.K.M.Valsala
For R1 & R2 : M/s.C.Meera Arumugham
Additional Government Pleader
For R3 : M/s.C.Harsha Raj
Additional Government Pleader

ORDER

M/s.C.Meera Arumugham, learned Additional Government Pleader takes notice on behalf of the 1st and 2nd Respondents. M/s.C.Harsha Raj, learned Additional Government Pleader takes notice on behalf of the 3rd Respondents.



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2. This Writ Petition has been filed for a Mandamus to direct the 2nd respondent to cancel the entry of encumbrance created in CO/Velachery/Book I/17/2024 dated 02.08.2024 by the Sub Registrar Velachery, with respect to the property of the Petitioner bearing Plot No: 1066 in RAM NAGAR LAYOUT, Velachery, measuring 4800 Sq.ft in Sy.Nos:119 and 123 (as per Patta No.19521 – Sy Nos:119/29, 123/56) of Madipakkam Village, Sholinganallur Taluk, presently Chengelpet District.

3. The Petitioner would submit that subject land belong to the Petitioner he having purchased the same under a registered Sale Deed dated 18.04.1963 from K.B.Gopinathan. The Petitioner has registered a Power of Attorney in favour of his power agent Mr.Ajmir Khan, who initiated the present Writ Petition.

4. While the Power Agent was attempting to deal with the property by entering into a Sale Agreement with third parties, he came to know about a few entries in the Encumbrance Certificate which was not made by his Principal. Therefore, he had made a complaint to the District Registrar and IG Registration and a detailed enquiry was conducted into the same.



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Ultimately, the District Registrar (South) Chennai found that the documents are fake and fraudulent documents and set aside the following documents:-

i 26.06.1963	Document No:2253 of 1963 Sale Deed by K.B.Gopinathan in favour of A.Duraisamy, S/o.Annamalai
ii 12.11.2018	Doc.No:6827 of 2018 General Power of Attorney by Mrs.Shanthi & Mrs.Kumari (legal heirs of A.Duraisamy) appointing one Mr.Gomez as their Power Agent
iii 23.11.2018	Doc.No:7010 of 2018 Sale Deed by Mrs.Shanthi & Mrs.Kumari through their Power Agent Gomez in favour of Mr.S.Kailash Ganesh with respect to Plot No:1068
iv 10.12.2018	Doc.No:7245 of 2018 MODT (Mortgage by Deposit of Title Deeds) by Mr.S.Kailash Ganesh in favour of Canara Bank for a sum of Rs.3 Crores
v 27.02.2019	Doc.No:2005 of 2019 Cancellation of Power of Attorney in the name of Gomez by Mrs.Shanthi & Mrs.Kumari
vi 28.03.2019	Doc.No.2041 of 2019 Sale Deed by Mrs.Shanthi & Mrs.Kumari in favour of Latha with respect to the other Plot (Plot No.1066)
vii 23.04.2019	Doc No:2565 of 2019 MODT (Mortgage by Deposit of Title Deeds) by Latha in favour of Canara Bank for a sum of Rs.3 Crores



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5. It appears that the 3rd Respondent had directed the revenue recovery proceedings against the property that is subject matter of sale in favour of Latha Proprietor of JS Pharma, which Sale Deed was also found to be bogus one. Though the documents were set aside as bogus document Encumbrance Certificate created on the directions of the 5th Respondent. The Petitioner gave a representation to the 2nd Respondent to cancel the encumbrance which has not been acceded to and therefore, the above Writ Petition has been filed.

6. Heard the learned counsel on either side.

7. The 5th Respondent has issued directions to create the encumbrance only on the basis that the property in question belongs to the said Latha Proprietor of JS Pharma, however the District Registrar after his enquiry has come to the conclusion that the Sale Deed in favour of Latha Proprietor of JS Pharma is a bogus one and has set aside the same. Once the documents is found to be fraudulent one no rights will flow from the said document. Therefore, the 5th Respondent cannot insist upon making a claim over the property which does not belong to the Assessee. Therefore, the continuance



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of the entry in the Encumbrance Certificate will cause hardship to the Petitioner and would also run contrary to the findings of the District Registrar that the documents in question are bogus and fraudulent one.

8. Therefore, the Writ Petition is allowed by directing the 2nd Respondent to delete the entry by stating that the encumbrance created by the 5th Respondent was only on the basis of the forged and fraudulent document. The said entry shall be deleted within a period of two (2) weeks from the date of receipt of a copy of this Order. No cost. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm



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P.T.ASHA, J.

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