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W.P. No.36446 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.36446 of 2023

S.Balaji

... Petitioner

Vs.

1. The District Registrar
Periamet SRO,
Poonamallee High Road
Chennai – 600 003

2. The Sub Registrar
Periamet SRO,
Poonamallee High Road
Chennai – 600 003

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue writ of Mandamus directing the respondents herein to consider and pass orders on the petitioner's representation dated 21.06.2023 for removing/deleting the entry of the Agreement for Sale, dated 12.03.2008, registered as Document No.501 of 2008 from the Encumbrance Records, in respect of the petitioner's property situated at Old No.29, New No.26, Nainiappa Naicken Street, Chindadripet, Chennai – 600 002.

For Petitioner : Mr.M.Balasubramanian

For Respondents : Mrs.V.Yamunadevi
Special Government Pleader



ORDER

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This Writ Petition is filed seeking a Writ of Mandamus directing the respondents herein to consider and pass orders on the petitioner's representation dated 21.06.2023 for removing/deleting the entry of the Agreement for Sale, dated 12.03.2008, registered as Document No.501 of 2008 from the Encumbrance Records, in respect of the petitioner's property situated at Old No.29, New No.26, Nainiappa Naicken Street, Chindadripet, Chennai – 600 002.

2. The case of the petitioner is that the property in question was settled in favour of the petitioner by his mother and grandmother (Life interest hold) by deed of settlement dated 06.09.2002 registered as Document No.1799 of 2002 on the file of the 2nd respondent and there was some error crept in the aforesaid deed of settlement in respect of extent the land in item No.1 of the scheduled mentioned property and hence, a deed of rectification dated 22.01.2003 registered as document No.346 of 2003 was executed by the mother and grandmother in favour of the petitioner. While so, the mother of the petitioner at the instigation of the the petitioner's sisters, unilaterally cancelled the said settlement deed dated 06.09.2002 without the knowledge of



the petitioner as well as his grandmother and the said cancellation of settlement deed was registered as document No.2335 of 2003. Hence, the petitioner filed a suit in O.S.No.2169 of 2004 on the file of the XVIII Assistant City Civil Court, Chennai for Declaration and Injunction as against his mother. The learned Judge by judgment dated 02.02.2006 granted the relief of Declaration in respect of the Item No.1 of the suit scheduled property and injunction in respect of the Item No.2 of the suit scheduled property. The Judgment was confirmed by the appellate Court by Judgment dated 29.11.2008 in A.S.No.158 of 2007 and the same attained finality. While so, the mother of the petitioner entered into a registered Sale Agreement dated 12.03.2008 in respect of the petitioner's property with one Rai and one R.Meenakshi and the same was registered as document No.501 of 2008 dated 12.03.2008. Subsequently, the petitioner sent legal notice to the his mother and the purchasers. Though the said agreement of sale is ex-facie illegal and time barred, the entry of said sale agreement dated 12.03.2008 still continues to be reflected in the Encumbrance records. Even after 15 years and despite the Court's order confirming the petitioner's title, the entry of said unlawful sale agreement has not been removed/deleted in the Encumbrance records. Aggrieved by the same, the petitioner sent a representation dated 21.06.2023 to the respondents requesting to delete the said entry. However, there was no



response from the respondents. Hence, the present writ petition is filed.

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3. The learned counsel for the petitioner submitted that the said sale agreement itself is void. The mother of the petitioner is not the owner of the property and without having any right, title and interest over the property, she has executed the sale agreement in favour of a third party. Though the petitioner made several representations, the respondents have so far not conducted any enquiry or deleted the entries shown in the Encumbrance. Therefore, the petitioner was constrained to file this petition seeking a direction to the respondents to consider the petitioner's representation.

4. Heard and perused the materials available on record.

5. It is seen that the petitioner is not a party to the Agreement and his name is not shown in the Encumbrance Certificate. His mother is said to have executed the agreement in favour of a third party. However, the petitioner has neither implicated his mother nor implicated the person with whom his mother entered into the sale agreement, as parties to this petition. Unless they are implicated in this case, this court cannot ascertain as to whether any civil suit is pending for specific performance. Under these circumstances, this



Court is of the opinion that the petitioner has not approached this Court with clean hands. Therefore, the petitioner is not entitled for the relief sought for.

However, the petitioner is at liberty to work out his remedy in the manner known to law.

6. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

08.01.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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P.VELMURUGAN. J.

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