



W.P.(MD)No.6232 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.6232 of 2023

and

W.M.P.(MD)No.5933 of 2023

1. Karuppaiah
2. Ramesh
3. Ponnarasi
4. Preetha
5. Virumandi
6. Pandiyammal

... Petitioners

versus

1. The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.
2. The District Registrar (Administration),
Madurai South.
3. The Sub Registrar,
Chekkanoorani,
Madurai District.
4. Virumandi
5. Selvi
6. Vignesh

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 23.02.2023 in Na.Ka.No.8553/Aa2/2022 passed by the second respondent and quash the same.

For Petitioners : Mr.J.Barathan
For R1 to R3 : Mr.M.Siddharthan,
Additional Government Pleader
For R4 to R6 : Mr.R.Ramasamy

ORDER

This writ petition is filed challenging the impugned order passed by the second respondent in Na.Ka.No.8553/Aa2/2022 dated 23.02.2023, cancelling the sale deed dated 19.09.2022 executed by the petitioners 1 to 5 in favour of the 6th petitioner

2. The brief facts of the case are that the subject properties in Survey No.43/2B measuring to an extent of 0.02.5 hectares, in Survey No.45/5B measuring 0.03.0 hectare, in Survey No.45/9B measuring 0.08.0 hectare and in Survey No.46/4A measuring 0.10.5 hectares in Jothimanickam Village, Usilampatti Taluk, Madurai District, originally belonged to one Dharmavel, who is the father of the first and second petitioner. The said Dharmavel passed away on 03.11.2010 leaving behind his wife Annakodi and his sons Karuppaiah



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(1st petitioner herein) and Ramesh (2nd petitioner herein) and Kennadi. Later, the mother of the petitioners 1 and 2 also passed away. Subsequently, the said Kennadi also passed away on 26.12.2015 leaving behind his wife Ponnarasi (3rd petitioner) and children Preetha (4th petitioner) and Virumandi (5th petitioner). Thereafter, the petitioners 1 to 5 had inherited the subject properties. While so, the respondents 4 to 6 gave a complaint dated 10.10.2022 to the second respondent alleging that the subject property has already been sold in favour of their father in the year 1988 by the first and second petitioner's father Dhamavel and thereafter, the 4th respondent's father has executed a gift deed in their favour in the year 2015. Without knowing the same, the petitioners 1 to 5 had executed a registered sale deed dated 19.09.2022 in favour of the 6th petitioner in respect of the subject property. On knowing the same, the petitioners 1 to 5 had filed a suit in O.S.No.164 of 2022 for declaration of title and also for permanent injunction. Based on that complaint, the second respondent conducted enquiry and passed the impugned order dated 23.02.2023 cancelling the sale deed dated 19.09.2022. Challenging the same, the present writ petition.

3. The learned counsel appearing for the petitioners submits that the sale made in the year 1988 itself is in dispute. In this regard, a suit has already



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been filed for declaration and the same is pending in O.S.No.164 of 2022 on the file of the District Munsif cum Judicial Magistrate, Usilampatti. Pending the suit, the complaint has been given before the Registering authorities. Based on that complaint, the impugned order came to be passed.

4. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the respondents 4 to 6.

5. The Registering Authority has no power to go into this issue and to cancel any registered document, as per the law laid down by the Hon'ble Supreme Court in *Satya Pal Anand vs. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767 and also by this Court in *G.Rajasulochana Vs. Inspector General of Registration and others* (W.P.No.29706 of 2022).

6. Further, when there is a dispute raised with regard to the validity of the sale deed said to have been executed in the year 1988 and the suit in O.S.No.164 of 2022 is also pending in this regard, the 2nd respondent had entered into the issue and decided the issue in favour of the private



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respondents., which is not correct. The rights of the parties will be decided only in the civil suit, on the basis of foundational facts established. Without any evidence and only based on the allegations of the respondents 4 to 6, such cancellation of the sale deed dated 19.09.2022 cannot be made. Therefore, the impugned order is liable to be quashed.

7. Accordingly, this writ petition is allowed by setting aside the impugned order passed by the second respondent in Na.Ka.No.8553/Aa2/2022 dated 23.02.2023 is hereby set aside.

8. The parties shall agitate their rights in the pending suit in O.S.No. 164 of 2022. The District Munsif cum Judicial Magistrate, Usilampatti, shall dispose of the suit in O.S.No.164 of 2022 as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

29.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No.
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N.SATHISH KUMAR, J.

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