



W.P.(MD)No.14991 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.14991 of 2022
and W.M.P.(MD)Nos.10726 of 2022 & 8519 of 2023

T.Ramathanulingam

... Petitioner

Vs.

1. Inspector General of Registration,
O/o. Inspector General of Registration,
No.100, Santhome High Road,
Mandavelipakkam, Raja Annamalaipuram,
Chennai-600028.
2. The Deputy Inspector General of Registration,
O/o. the Deputy Inspector General
of Registration, St.Marks Street,
East of St.Johns High School,
Near Sankar Colony, Palayamkottai,
Tirunelveli – 627 002.
3. The District Registrar (Admin),
O/o. the District Registrar,
Kanyakumari, Kanyakumari District.
4. The Sub-Registrar,
Kottaram, Kanyakumari,
Kanyakumari District.
5. Durai Selva Leena



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6.Dr.Vinith

7. Bensy

8.Kumar Thangam

9.Kattimani

10.Manikandan

.... Respondents

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 pertaining to the impugned order in No. 4851 / Aa3 / 2021 dated 28.03.2022 on the file of the Respondent No.3 and quash the same as illegal.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1 to R4
Mr.F.Deepak for R5

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in No.4851 /Aa3/2021 dated 28.03.2022 on the file of the Respondent No.3 and quash the same as illegal.



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2. It is the case of the Writ Petitioner that the petitioner has purchased the subject property on 26.07.2021 from the 6th respondent, who is the husband of the 5th respondent for valuable consideration, after getting consent from the 5th respondent. However, the 5th respondent gave a complaint before the Sub-Registrar holding that she had already obtained a decree in her favour in O.S.No. 331 2015 on the file of the Principal District Munsif, Nagercoil and therefore, the sale in favour of the petitioner dated 26.07.2021 is not valid. Based on the civil Court decree, the Sub Registrar, through the impugned order, has held that the sale in favour of the petitioner was fraudulent. Challenging the same, the petitioner has filed this Writ Petition.

3. The only contention of the learned counsel appearing for the petitioner is that though the 5th respondent has filed a suit against her husband viz., the 6th respondent in O.S.No.331 of 2015 and obtained a decree, the said decree is a collusive decree. The 6th respondent has in fact filed an appeal as against the said judgment and decree before the Principal Subordinate Judge, Nagercoil. However, the same has not been prosecuted till date. Further, the petitioner has also filed a suit in O.S.No.234 of 2021 before the Principal District Munsif, Nagercoil. Only after the outcome of these civil suits, the title of the subject property can be



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ascertained. Now the respondents 5 and 6 joined together and disputed the rights of the petitioner. However, without considering all these facts the third respondent has passed the impugned order and therefore, the same is liable to be set aside.

4. The respondents have not filed their counter.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the 5th respondent and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court is of the view that considering the nature of the relief sought for in O.S.No.331 of 2015, the civil Court decree is operating as against the 6th respondent at the relevant point of time. Based on the said judgment and decree, the third respondent has passed such an order. As long as, the civil Court decree is not set aside or the rights of the petitioner is declared, there is no purpose will be served in interfering with the orders of the District Registrar. Accordingly, this Writ Petition is liable to be dismissed.



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7. However, considering the peculiar facts and circumstances of the case that the husband and wife have now joined together in order to defeat the rights of the petitioner, liberty is granted to the petitioner to file a suit either for recovery of money or to establish his right in the subject property. The period spent in all these proceedings shall be excluded in the event of suit is filed within three months from the date of receipt of a copy of this order.

8. With the above observations, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

19.08.2024

NCC : Yes/No
Index : Yes/No

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N.SATHISH KUMAR, J.

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