



W.P(MD)No.16490 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.16490 of 2023

and

W.M.P.(MD)No.13789 of 2023

Manikandan

... Petitioner

Vs.

1.The District Registrar (Administration),
Madurai North, Madurai.

2.The Sub Registrar,
Tallakulam Sub Registrar Office,
Madurai.

3.A.M.Rajammal

4.M.A.Jeyakannan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire record pertaining to the impugned order issued by the 1st respondent in proceedings No.7204/A2/2022 dated 07.12.2022 and quash the same as illegal and consequently direct the 1st and 2nd respondents to delete the entry from the encumbrance certificate.

For Petitioner : Mr.PM.Vishnuvarthanan

For R1 & R2 : Mr.P.Subbaraj

Special Government Pleader

For R3 : Mr.R.Babu Jeganath



W.P(MD)No.16490 of 2022

ORDER

WEB COPY

The petitioner has filed this writ petition challenging the order of the first respondent in proceedings No.7204/A2/2022 dated 07.12.2022 and to direct the 1st and 2nd respondents to delete the entry from the encumbrance certificate.

2.Heard the learned counsel appearing on either side and perused the materials placed on record.

3.It is the case of the petitioner that the subject property is the ancestral property of the petitioner and the petitioner and other legal heirs are also entitled to equal share in the said property. However, the fourth respondent, who is the younger brother of the petitioner, had created a forged settlement deed with regard to the entire subject property in his favour. Hence, the petitioner had made a petition before the first respondent to cancel the said deed. The first respondent, without considering the factual aspects, had directed the petitioner to approach the civil Court and rejected the petition filed by the petitioner. Challenging the same, the petitioner has filed this writ petition.



4.The third respondent had filed a counter stating that she is the mother of the petitioner. She had purchased the subject property from her father-in-law for valuable consideration and the revenue records also stand in her name. Hence, the subject property is not a ancestral property. She submitted that she had voluntarily executed the settlement deed in favour of the fourth respondent, who is taking care of her. Hence, she opposes this writ petition.

5.Since the very Section 77(A) inserted under Registration Act to cancel the registered document, is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch, such fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court in view of the decisions made in ***Satya Pal Anand v. State of M.P.[2016 10 SCC 767]*** and ***G. Rajasulochana v Inspector General [W.P 29706 of 2024 dated 16.04.2024]***.

6.In view of the above settled position of law, unless the power is specifically vested with the registering authority to cancel any document and to go into the matter, there cannot be any direction to the authorities concerned to cancel the document.



W.P(MD)No.16490 of 2023

7. In view of the above, I do not find any reason to interfere with the order of the first respondent. Accordingly, this Writ Petition is dismissed. It is for the petitioner to work out his remedy before the competent civil Court in the manner known to law. There shall be no order as to costs.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ta

To

- 1.The Inspector General of Registration (IG),
Department of Registration,
No.100, Santhom High Road,
Santhom, Pattinapackam,
Raja Annamalaipuram, Chennai 600 028.
- 2.The Deputy Inspector General of Registration (DIG),
St.Marks Street, Sankar Colony Near,
Palayamkottai, Tirunelveli
- 3.The District Registrar,
Department of District Registrar Office,
Tenkasi, Tenkasi District
- 4.The Sub Registrar,
Department of Registration,
Surandai, Tenkasi District.



WEB COPY



W.P(MD)No.16490 of 2023

N.SATHISH KUMAR, J

ta

W.P(MD)No.16490 of 2023

02.09.2024