



W.P.(MD)Nos.17922 and 5447 of 2023, 27067 and 22482 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)Nos.17922 and 5447 of 2023, 27067 and 22482 of 2022
and W.M.P(MD)Nos.20612,5095, 14968 and 14969 of 2023, 21228,
21229 and 16673 of 2022

In W.P(MD)No.17922 of 2023:

Urumaiah

... Petitioner

/Vs./

1.The District Registrar (Administration),
Pudukkottai.

2.The Sub Registrar,
Kulathur,
Pudukkottai District.

3.Saritha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari thereby call for the records of the first respondent in Na.Ka.No.5273/A2/2023 dated 09.06.2023 and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 & R2 : Mr. S.P.Maharajan
Special Government Pleader



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W.P.(MD)Nos.17922 and 5447 of 2023, 27067 and 22482 of 2022

For R3 : Mr.M.Kumar

In W.P(MD)No.22482 of 2022:

Urumaiah

... Petitioner

/Vs./

1.The District Registrar (Administration),
Department of Registration,
Pudukkottai.

2.The Sub Registrar,
Keeranur,
Pudukkottai District.

3.Saritha

4.Rajagopal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari fired mandamus thereby call for the records of the first respondent in Na.Ka.No.3901/A2/2021 dated 27.05.2022 and quash the same as arbitrary and illegal and in consequence thereof to remove the entries in encumbrance certificate in pursuance of the impugned order.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 & R2 : Mr. S.P.Maharajan
Special Government Pleader

For R3 : Mr.M.Kumar
For R4 : M/s/S.Mamtha



W.P.(MD)Nos.17922 and 5447 of 2023, 27067 and 22482 of 2022

In W.P(MD)No.5447 of 2023:

Urumaiah

... Petitioner

/Vs./

1.The District Revenue Officer,
Pudukkottai.

2.The Revenue Divisional Officer,
Illuppur,
Pudukkottai.

3.The Tashsildar,
Kulathur Taluk,
Pudukkottai.

4.Saritha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari thereby call for the records on the first respondent's proceedings in Ni.Mu.D.5/31022/2021 dated 28.02.2023 and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 - R3 : Mr. S.P.Maharajan
Special Government Pleader

For R4 : M/s.K.Madhumitha

In W.P(MD)No.27067 of 2022:

Urumaiah

... Petitioner

/Vs./

1.The District Revenue Officer,
Pudukkottai District.



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2.The Revenue Divisional Officer,
Illupur, Pudukkottai District.

3.The Tashsildar,
Kulathur Taluk,
Pudukkottai District.

4.Saritha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari thereby call for the records of the first respondent's proceedings in Na.Ka.D.5/31022/2021 dated 18.08.2022 and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 - R3 : Mr. S.P.Maharajan
Special Government Pleader

For R4 : Mr.M.Kumar

COMMON ORDER

In all these Writ Petitions, the petitioner is one and the same and the subject property is also the same. Hence, this Court is inclined to dispose of the Writ Petitions by this common order.

2.i) W.P(MD)No.22482 of 2022 has been filed challenging the



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order passed by the first respondent dated 27.05.2022 thereby restricted the purchase of the subject property as 3/4th share in favour of the petitioner. The remaining 1/4th share is permitted to deal with by the third respondent. The property comprised in S.No.204/4-punjai-0.24.5 ares, S.No.204/6-punjai-0.24.5 ares, S.No. 207/6A-punjai-0.24.0 ares, S.No. 207/7-punjai 0.18.0 ares, S.No.207/9-0.18.0 ares and 213/2-punjai-0.07.5 ares of Udaiyalipatty Village originally belongs to one Marimuthu. It was his ancestral property.

2.ii)After his demise, his wife and two sons had sold the subject property in favour of one Premabai by a registered sale deed dated 05.12.2011 vide document No.8405/2011. Subsequently, the said Premabai was issued patta. In turn, the said Premabai had sold the entire property in favour of the petitioner by a registered sale deed dated 04.06.2020 for valid consideration. While being so, the third respondent submitted a representation alleging that though she is also a daughter of the said Marimuthu and even on the date of purchase on 05.12.2011 in respect of the subject property by Premabai, she was a major aged about 21 years, the entire property was sold out without her consent. Therefore, she prayed to set aside the sale deed dated 05.12.2011 and also the



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subsequent sale deed dated 04.06.2020.

2.iii) On receipt of the same, the first respondent herein conducted an enquiry and concluded that 1/4th of the subject property in the sale deed can be registered and not to register any document in respect of 3/4th share. The third respondent was given liberty to deal with 1/4th share of the subject property. Thereafter, the third respondent had executed a sale deed in respect of the 1/4th share in favour of the fourth respondent. Though the petitioner was a party in the said proceedings, there is no reference to show that the petitioner was served with notice in the enquiry from the first respondent. The first respondent conducted an enquiry after examining the parties. Though the first respondent set the petitioner as exparte, there was no reference to show that the petitioner was served with notice in a given address. The third respondent lodged a complaint mentioning the address of the petitioner mentioned in the sale deed. Further, admittedly, the petitioner is the subsequent purchaser of the subject property. His vendor namely Premabai had purchased the subject property from her vendors by a registered sale deed dated 05.12.2011 vide document No.8405/11. In turn, the said Premabai had sold out the subject property in favour of the petitioner by a registered



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sale deed dated 04.06.2020. After a period of two years from the purchase of the subject property by the petitioner, the third respondent lodged a complaint as if she was a major when the first sale deed dated 05.12.2011 was executed and her share was also sold out without her consent and knowledge in favour of Premabai. During enquiry before the first respondent, the third respondent and her mother stated that the third respondent was aged about 21 years at the time of execution of the sale deed dated 05.12.2011; they had executed the sale deed in respect of their 1/4th share alone; however, the purchaser prepared a sale deed as if the entire property has been purchased and obtained signature from other three legal heirs. The third respondent also deposed that she was a major at the time of execution of the sale deed in favour of Premabai. In order to substantiate the said contention no document had been produced before the first respondent. There is absolutely no discussion about the document which was produced by the third respondent and her mother. Thus it is clear that the complaint itself is a frivolous one. After they sold out the entire property in the year 05.12.2011 and after purchase of the subject property by the petitioner, the third respondent lodged a complaint as if her 1/4th share was also sold out without her consent and



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knowledge in favour of Premabai. However, on a perusal of the sale deed dated 05.12.2011, it does not contain any recital to the effect that the third respondent's mother, her sister and her brother had executed the sale deed so far as their 1/4th share alone. They had executed the sale deed in respect of the entire extent of the property in favour of Premabai. That apart, the third respondent has no power to decide the title over the property. The Hon'ble Supreme Court of India as well as the Division Bench of this Court repeatedly held that the registering authority has no power to cancel the registered document.

3. In view of the above discussion, the order impugned in WP(MD)No.22482 of 2022 dated 27.05.2022 on the file of the first respondent cannot be sustained and the same is liable to be quashed and the same is quashed.

4. In the meanwhile, in pursuant to the order passed by the first respondent, the third respondent executed a sale deed in favour of the fourth respondent in respect of her 1/4th share in the subject property. However, it is kept pending document on the file of the second



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respondent. In the meanwhile, the third respondent also lodged a complaint before the the District Registrar to cancel the document which was registered in favour of Premabai and the petitioner herein under Section 77A of the Registration Act. Now Section 77A itself has been struck down by the Hon'ble Division Bench of this Court. Therefore, the impugned notice cannot be sustained and the same is liable to be set aside and the same is set aside, which is challenged in WP(MD)No. 17922 of 2023. Therefore, WP(MD)No.17922 of 2023 is allowed.

5. W.P(MD)No.27067 of 2022 has been filed challenging the notice issued by the first respondent. While the revision filed by the fourth respondent is pending, the first respondent passed an order and the same is under challenge in W.P(MD)No.22482 of 2022 and therefore, nothing survives in W.P(MD)No.27067 of 2022 and hence the same is closed.

6. W.P(MD)No.5447 of 2023 has been filed challenging the order passed by the first respondent thereby allowed the complaint lodged by the fourth respondent to register the patta in respect of the subject



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property in favour of the deceased person Marimuthu. In view of the order passed in W.P(MD)No.24482 of 2022 the order impugned in WP(MD)No.5447 of 2023 dated 28.02.2023 cannot be sustained and the same is liable to be quashed and the same is quashed. W.P(MD)No.5447 of 2023 is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
NCC : Yes / No
CM



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2.The Sub Registrar,
Kulathur,
Pudukkottai District.

3.The District Registrar (Administration),
Department of Registration,
Pudukkottai.

4.The Sub Registrar,
Keeranur,
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Department of Registration,
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G.K.ILANTHIRAIYAN, J.

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Order made in
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