



W.P(MD).No.17490 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.17490 of 2023

R.K.Sundari

... Petitioner

Vs.,

1.The District Registrar,
District Registrar Office,
Tuticorin District.

2.The Sub Registrar,
Melur Sub Registrar Office,
Tuticorin District.

3.S.Ramasamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 and 2 to delete the entries pertaining to registration of Doc No.7/2020 dated 24.12.2020 from the encumbrance certificate on the file of the second respondent /Sub Registrar, Melur Sub Registrar Office, Tuticorin and consider the petitioner's representation dated 06.07.2023.

For Petitioner	: Mr.M.Vivek Kumar
For Respondents	: Mr.P.Subbaraj(for R1 & R2) Special Government Pleader Mr.Selva Aditya for Mr.G.Prabhu Rajadurai (for R3)



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ORDER

This writ petition has been filed to direct the respondents 1 and 2 to delete the entries pertaining to registration of Doc No.7/2020 dated 24.12.2020 from the encumbrance certificate on the file of the second respondent /Sub Registrar, Melur Sub Registrar Office, Tuticorin and consider the petitioner's representation dated 06.07.2023.

2. It is the case of the petitioner that the petitioner is the wife of the third respondent and she executed a power of attorney in respect of the property in Survey Nos.246/1A, 250/1B, 374/3, 331/1, 361/2C1, 358/2B3, 359/1H, 359/1Q and 376/2B in Meelavittan Village and S.No.323 in Pudupandiapuram Village, Tuticorin District, totally to an extent of about 1,41,492.04sq.mts, in favour of her husband in the year 1991. Thereafter, the petitioner cancelled the said power of attorney. When she intended to register her property in favour of her son, she came to know that based on the power of attorney, the third respondent fraudulently executed a settlement deed in favour of himself. Thereafter, the said fraudulent settlement deed was cancelled. In the meanwhile, the third respondent executed a sale deed in favour of the third party vide Doc.No.3764/2020 dated



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20.10.2020 creating forged document. Subsequently, the third respondent filed W.P(MD).No.17630 of 2020 and obtained interim order not to alienate the subject property. The said interim order was also registered in the encumbrance vide Doc.No.7 of 2020 dated 24.12.2020. Now, it is the contention of the writ petitioner that the said writ petition has been dismissed on 16.05.2024. Hence, she seeks to delete the entry pertaining to the registration of Doc.No.7 of 2020 dated 24.12.2020 from the encumbrance certificate. In this regard, she also gave a representation before the registering authorities. However, no action has been taken. Hence, the petitioner is before this Court.

3. At the outset, the very sale deed executed by the petitioner's husband/third respondent herein in favour of the third party has not been annulled so far. It is also stated that a suit in O.S.No.48 of 2021 is pending before the Additional District Munsif, Thoothukudi. In such view of the matter, this Court is of the view that mere direction to the registering authority will not serve any purpose and that will not decide the title also. Hence, the parties are directed to agitate their respective right before the concerned civil Court.



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N.SATHISH KUMAR,J.

Rmk

4. With the above observation, the Writ Petition is disposed of . No costs.

09.09.2024

NCC : Yes/No
Index : Yes/No
Rmk

To

- 1.The District Registrar,
District Registrar Office,
Tuticorin District.
- 2.The Sub Registrar,
Melur Sub Registrar Office,
Tuticorin District.

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