



W.P.(MD)No.18747 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.18747 of 2024
and W.M.P.(MD)Nos.15868 & 15870 of 2024

Vijayabharathi

... Petitioner

Vs.

- 1.The State of Tamil Nadu, Rep. by its,
The Inspector General of Registration,
No.100, Santhom High Court,
Mayilapure, Chennai – 28.
- 2.The District Registrar (Admin),
O/o.District Registrar Office,
Ramanathapuram District,
Ramanathapuram.
- 3.The Sub-Registrar,
O/o.Melapalayam Sub-Registrar Office,
Rameshwaram,
Ramanathapuram District,
Ramanathapuram.
- 4.The Tahsildar,
Rameshwaram Taluk,
Ramanathapuram District.

5.Ravichandran

.... Respondents



W.P.(MD)No.18747 of 2024

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned entry in document No.390/2024 dated 19.10.2023 property in Sy.No.778/14-A, Ward 13, (Old Ward No.8), Gandhi Nagar, Rameshwaram Village and Taluk, Ramanthapuram District, measuring an extent of 0-1.50 Hectres (1922 ¼ Sq.ft) (178.58 Sq.Meters), made in favour of the 5th respondent and quash the same is illegal and consequently direct 3rd respondent to remove the entry from the encumbrance certificate, within the time stipulated by this Court.

For Petitioner : Mr.K.R.Manimaran
For Respondents : Mr.M.Siddarth,
Addl. Govt. Pleader for R1 to R4

ORDER

This Writ Petition has been filed challenging the entry made in document No.390/2024 dated 19.10.2023 property in Sy.No.778/14-A, Ward 13, (Old Ward No.8), Gandhi Nagar, Rameshwaram Village and Taluk, Ramanthapuram District, measuring an extent of 0-1.50 Hectres (1922 ¼ Sq.ft) (178.58 Sq.Meters), made in favour of the 5th respondent and seeking consequential direction to the 3rd respondent to remove the entry from the encumbrance certificate, within the time stipulated by this Court.



W.P.(MD)No.18747 of 2024

2. Heard the learned counsel for the petitioner and the learned Additional

Government Pleader, who takes notice for the respondents 1 to 4. Since no adverse order is going to be passed against the fifth respondent, notice to the fifth respondent is dispensed with. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, she is the absolute owner of the property in S.No.778/14-A, Ward No.13, (Old Ward No.8), situate at Gandhi Nagar, Rameshwaram Village & Taluk, Ramanathapuram District, by virtue of registered sale deed dated 03.06.2022 on the file of the third respondent. While purchasing the said property, the petitioner obtained encumbrance certificate for more than 27 years. The 5th respondent admittedly, entered into an unregistered sale agreement dated 27.08.2012 with one Mr.Kaleeswaran, S/o.Sornamuthu, in respect of the property in S.No.778/14, which is a vacant land. Since the said Kaleeswaran, did not come forward to execute the sale deed, the 5th respondent filed a suit in O.S.No.7 of 2013, on the file of Sub Court, Ramanathapuram for specific performance and obtained a decree. While executing the said decree, the Execution Court, executed settlement deed in favour of 5th respondent. According to the petitioner, at the time of filing of the suit, Kaleeswaran is not the owner of



W.P.(MD)No.18747 of 2024

the property and the 5th respondent is bound to verify the title before dealing with the property. The third respondent also bound to verify the previous records before every new entry. No such enquiry was held by the registration department before entertaining the deed presented by the 5th respondent. Therefore, the impugned entry made in favour of the 5th respondent is liable to be set aside.

4. At the outset, this Court is of the view that the Writ Petition before this Court is not maintainable. If the petitioner is of the view that the decree has been obtained fraudulently by the 5th respondent, it is for the petitioner to work out her remedy before the civil Court. It is a matter of evidence, it has to be established in the manner known to law and the disputed facts cannot be gone into before this Court while exercising power under Section 226 of the Constitution of India.

5. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.08.2024

NCC : Yes/No
Index : Yes/No
vsm



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