



W.P.(MD)No.20621 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20621 of 2022
and W.M.P.(MD)No.14945, 14947 and 14950 of 2022
and 5182 of 2023

Elezabeth Mary Cruz Michael

... Petitioner

versus

1. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandevlipakkam,
Raja Annamalaipuram, Chennai – 600 028.
2. The Deputy Inspector General of Registration,
St. Mark Street, Near Sankar Colony,
Palayamkottai, Tirunelveli District.
3. The District Registrar (Admn),
The District Registrar Office,
Kanyakumari District.
4. Gnana Prakasam
5. Arokiya Arulvalan

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the 1st impugned order passed by the 3rd respondent vide



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order No.1520/ஆ1/2018-1, dated 01.03.2019 as well as the consequential 2nd impugned order passed by the 2nd respondent vide Order No.2714/தபி/2022 dated 05.05.2022 and quash the same as illegal and consequently for a direction, directing the 4th and 5th respondents to refrain from disturbing the petitioner's peaceful possession and enjoyment in 52 cents of Agricultural Land located at Azhagappapuram, Agasteeswaram Taluk, Kanyakumari District in re.Survey No.80/1, Old Survey No.2648 and 2649.

For Petitioner : Mr.G.Anto Prince
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader
For R4 and R5 : Mr.C.Masilamani

ORDER

This writ petition is filed challenging the order passed by the 3rd respondent vide order No.1520/ஆ1/2018-1, dated 01.03.2019 and the consequential order passed by the 2nd respondent vide Order No.2714/தபி/2022 dated 05.05.2022.

2. The case of the petitioner is that the subject property originally belonged to one Maria Gnana Selvam, who executed a release deed in favour of his son one Michael Antony and subsequently, the said Michael Antony executed a release deed in favour of his sister one Sundari Bhai, in Document



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No.3168/2007, from whom, Ms.Geetha purchased the subject property vide a sale deed Document No.3373/2008, dated 23.09.2008 and thereafter, the petitioner has purchased the subject property from the said Geetha vide a sale deed in Document No.4821/2009 dated 23.12.2009. While so, the 4th respondent with the connivance of the Sub Registrar of Kottaram, made illegal entry in the index of the encumbrance certificate of the scheduled property. On knowing the same, the petitioner on 30.04.2019, preferred a complaint before the Sub Registrar, Kottaram, Kanyakumari District. Since the Sub Registrar has not responded to the said complaint, the petitioner has filed a suit before the Principal District Munsif, Nagercoil, for mandatory injunction directing the appropriate authorities in the Registration Department to delete the illegal entry in the index of the Encumbrance Certificate of the Scheduled property and also for a Prohibitory injunction to refrain from registering any other consequential illegal documents at the instance of the 4th and 5th respondents. During the pendency of the suit, the 5th respondent, who is the son of the 4th respondent, gave a complaint to the 3rd respondent seeking to cancel the document Nos. 3168/2007, 3373/2008, 698/2009, 4821/2009. Based on the said complaint, the 3rd respondent has passed an order dated 01.03.2019, holding that the document No.3168/2007 and the consequential documents vide Document Nos.



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3373/2008, 698/2009 and 4821/2009 are false documents. Aggrieved over the same, the petitioner has filed an appeal before the first respondent. But, the appeal proceedings were taken up by the 2nd respondent, The second respondent, by order dated 05.05.20022, dismissed the appeal confirming the order passed by the 3rd respondent. Challenging the same, the present writ petition has been filed.

3 The learned counsel appearing for the petitioner submits that the petitioner is a *bona fide* purchaser. She purchased the subject property after paying a valid sale consideration and after verifying 30 years of encumbrance from the encumbrance certificate of the property. Subsequently, she has muted her name in the revenue records and also made improvements in the schedule property by spending more money. From the date of purchase, she is in exclusive possession and enjoyment of the property without any hindrance. He further submits that as per the law, the Registrar does not have any power to hold that a particular document is a false document. But, the respondents 1 and 3, without any material facts and without any application of mind, held that the documents are fraudulent documents. Therefore, the impugned orders warrant interference.



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4. The learned counsel appearing for the respondents 4 and 5 submits that the subject property originally belonged to one Maria Gnana Selvan and his mother Devayee Nadachi, who entered into a sale agreement on 02.07.1959 with one Sivaraj Nadar. In the meantime, the said Maria Gnana Selvan and his mother Devayee Nadachi sold the subject property to one Gnanamani Nadar on 31.05.1960 vide a registered document in Doc.No.2339/1960. Therefore, the said Sivaraj Nadar filed a suit for specific performance in O.S.No.239/1960 and the same was dismissed by the Principal District Munsif Court, Nagercoil. Aggrieved over the same, the said Sivaraj Nadar filed an appeal in A.S.No.8 of 1962 before the Sub Court, Nagercoil. The said appeal was allowed on 29.09.1964 and consequently, the said Sivaraj Nadar obtained sale deed from the Court and the same was registered as Doc.No.820/1968. In the meanwhile, the above said Gnanamani Nadar sold the property to the 4th respondent and the same was registered as Doc.No.2950/1970. Thereafter, the dispute arose between the 4th respondent and the said Sivaraj Nadar. The said Sivaraj Nadar, treating the 4th respondent as a mortgagee, filed a suit in O.S.No.203/1975 before the Principal District Munsif, Nagercoil, praying for redemption of mortgage against the 4th respondent on deposit of the balance mortgage amount



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and for recovery of property with *mesne* profits. The above said suit was decreed in favour of the said Sivaraj Nadar. Aggrieved over the same, the 4th respondent filed an appeal before the District Court, Kanniyakumari at Nagercoil in A.S.No.405/1976. Pending the appeal, the matter was settled by the Arbitrators and accordingly, the said Sivaraj Nadar received a sum of Rs. 9,000/- and conveyed his title over the property to the 4th respondent. Therefore, the 4th respondent is the absolute owner of the property. According to the 4th respondent, the legal heirs of the Maria Gnana Selvan were not having any rights over the subject property. Therefore, the documents executed by them are false. The 3rd respondent, after considering all the facts and circumstances of the case, has correctly held that the document No.3168/2007 and the consequential documents vide Document Nos.3373/2008, 698/2009 and 4821/2009 are false documents, which was also confirmed by the second respondent. Therefore, the impugned orders do not warrant any interference.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th and 5th respondents.



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6. The petitioner claims that her vendor has purchased the subject property from the legal heirs of the original owner of the property and therefore, she is the absolute owner of the property. On the other hand, the 4th respondent claims that he is the absolute owner of the property and he has derived title over the subject property from one Sivaraj Nadar, who obtained title through legal proceedings. Based on the complaint given by the 5th respondent, who is the son of the 4th respondent, the respondents 2 and 3, passed the impugned orders holding that the document No.3168/2007 and the consequential documents vide Document Nos.3373/2008, 698/2009 and 4821/2009 are false documents.

7. Whether the document No.3168/2007 is a forged document or not, is a matter of evidence to be decided only by the competent Civil Court. There must be a evidence to show that the document has been executed in a deceitful manner. But, the respondents 2 and 3, without any evidence and without any application of mind, passed the impugned orders holding that the documents are fraudulent documents. Therefore, the findings recorded by the respondents 2 and 3 that the documents are fraudulent documents, cannot be sustained in the eye of law.



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8. Accordingly, this writ petition is allowed and the order passed by the 3rd respondent dated 01.03.2019 and the consequential order passed by the 2nd respondent dated 05.05.2022 are hereby set aside.

9. However, it is made clear that it is for the petitioner to establish his title by way of filing a civil suit before the concerned Civil Court. In the event, if any suit is filed by the petitioner, the concerned Civil Court shall decide the same on its own merits, without being influenced by any of the observations made in this order. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No.
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To

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100, Santhome High Road,
Mullima Nagar, Mandevlipakkam,
Raja Annamalaipuram, Chennai – 600 028.
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N.SATHISH KUMAR, J.

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