



W.P(MD)No.22581 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.22581 of 2023

and

W.M.P.(MD)Nos.18829, 18831 and 18832 of 2023

A.Antonyraj @ Kannan

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Tirunelveli, Tirunelveli District.

2.The District Registrar (Admin),
Tenkasi, Tenkasi District.

3.The Sub Registrar,
Sub Registration Office,
Tenkasi, Tenkasi District.

4.Prakash Sahayaraj

5.Valliammal

6.Antony Viyakkamal @ Amudha

7.Sahayamary

8.Viyakkamal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order in Na.Ka.No.6542/ThaPi/2021, dated 09.03.2023 of the 1st respondent herein, confirming the impugned order in Na.Ka.No.6710/A2/2020, dated 23.11.2021 of the 2nd respondent and quash the same.



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For Petitioner : Mr.T.Pon Ramkumar
For R1 to R3 : Mr.P.Subbaraj,
Special Government Pleader
For R4 : Mr.S.Rajasekar,
for M/s.T.Lajapathi Roy Associates
For R5 & R7 : No Appearance
For R6 & R8 : Tapal Returned

ORDER

The order of the 1st respondent dated 09.03.2023, confirming the order of the 2nd respondent dated 23.11.2021, where the sale deed dated 06.08.2020 has been cancelled, is under challenge in this Writ Petition.

2.It is the case of the petitioner that the properties in Survey No.309/2A1A to an extent of 1,538 sq.ft, situated at Vallava Vinayagar Koil Street, Puliangudi, Kadayanallur Taluk, Tenkasi District and in Survey No.309/2A to an extent of 439.57 sq.ft, situated at Subramaniya Swamy Kovil Thenvadal Street, Puliangudi, Kadayanallur Taluk, Tenkasi District, originally belonged to his grandfather. In survey No.309/2A1A, his grandfather constructed two houses to an extent of 791.226 sq.ft and 307.226 sq.ft and in



between the said two houses, there is vacant land to an extent of 307.222 sq.ft.

His father had two wives, namely, Antony Ammal and Radha. His grandfather executed a sale deed in favour of the said Antony Ammal in respect of the properties in question. The said Antony Ammal had mortgaged the properties in question in favour of one Arunachalam, who has filed a suit in O.S.No.121 of 1981, which was decreed and the properties in question were brought under Court auction. The brother of the said Antony Ammal / father of the 4th respondent had purchased the properties in question and symbolic possession alone had been granted in favour of the father of the 4th respondent. Thereafter, it appears that the suit has been filed for partition in O.S.No.230 of 1986, where preliminary decree was passed. Thereafter, the said Antony Ammal died and her legal heirs / respondents 5 to 8 sold the properties in question to the petitioner vide registered sale deed dated 06.08.2020. Aggrieved by the same, the 4th respondent and other legal heirs filed a suit in O.S.No.16 of 2021 on the file of the District Munsif Court, Sivagiri, Tenkasi District, seeking for declaration to declare the sale deed dated 06.08.2020 as null and void. Pending the suit, the 4th respondent has also filed a petition before the 2nd respondent, seeking cancellation of the sale deed dated 06.08.2020. The 2nd respondent, having conducted enquiry, has passed an order dated 23.11.2021, cancelling the said sale deed dated 06.08.2020. On appeal, the 1st respondent vide order dated



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09.03.2023, has also confirmed the order of the 2nd respondent. Challenging the same, the petitioner has filed this Writ Petition.

3.Heard the learned counsel on either side and perused the materials available on record carefully.

4.It is to be noted that the foundational facts as to whether the delivery has been effected or possession has been recovered within a period of limitation, pursuant to the Court auction sale, have not been established. All these facts can be established only before the civil Court. Further, the very Section 77(A) inserted under Registration Act is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart the issue of title and fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court as per ***Satya Pal Anand v. State of M.P.[2016 10 SCC 767]*** and ***G. Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024.***

5.In such view of the matter, the impugned order passed by the 1st respondent is quashed and this Writ Petition is allowed. However, the parties are directed to agitate their rights in the pending Suit in O.S.No.16 of 2021 on



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the file of the District Munsif Court, Sivagiri, Tenkasi District. No costs.

Consequently, connected miscellaneous petitions are closed.

30.09.2024

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

Yuva

To

- 1.The Deputy Inspector General of Registration,
Tirunelveli, Tirunelveli District.
- 2.The District Registrar (Admin),
Tenkasi, Tenkasi District.
- 3.The Sub Registrar,
Sub Registration Office,
Tenkasi, Tenkasi District.



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N.SATHISH KUMAR, J.

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