



W.P.(MD)No.25992 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.25992 of 2022

and

W.M.P.(MD)Nos.20139 & 20140 of 2022

J.Angelin Pornavathi

... Petitioner

Vs.

1.The District Registrar (Administration),
Tirunelveli.

2.The Sub Registrar,
Melapalayam, Tirunelveli District.

3.V.S.Velayutham

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned order in Na.Ka.No.476/A3/2018, dated 02.03.2021 and consequent impugned order in Na.Ka.No.5913/A3/2021, dated 30.05.2022 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.S.Selva Aditya

For R1 & R2 : Mr.P.Subbaraj,
Special Government Pleader

For R3 : Mr.N.Dilip Kumar



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ORDER

The petitioner purchased the land to an extent of 20 cents in Plot No.8 in a private layout, situated at Kogathanparai Village, Palayamkottai from one Chellapandian and 21 others through a registered sale deed under Document No.4783/2006. The petitioner's vendors claimed to have got the title over the said property under two documents dated 15.05.2006 in Document Nos.2766 and 2767 of 2006. Similarly, many other persons purchased the plots. While being so, the 3rd respondent has made a complaint before the 3rd respondent, claiming that he is the owner of the property in question and he has also filed a suit in O.S.No.166 of 2018 on the file of the Principal District Judge, Tirunelveli, seeking for declaration to declare that the documents dated 15.05.2006 are null and void, where the petitioner and her vendors are arrayed as the defendants and the same is still pending. Based on the said complaint filed by the 3rd respondent, the 1st respondent, vide order dated 02.03.2021, cancelled the two documents dated 15.05.2006 in Document Nos.2766 and 2767 of 2006 and thereafter, vide order dated 30.05.2022, directed the 2nd respondent to make an entry, restricting further alienation in respect of the property in question. Challenging these two orders, the petitioner has filed this Writ Petition.



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

3.It is to be noted that already a suit in O.S.No.96 of 1985 had been filed by 94 persons against 123 persons as defendants, claiming partition. However, the same was dismissed for non-joinder of necessary parties. That is reached finality. However, thereafter, in the year 2006, partition deed has been entered among 70 persons, despite the fact that there were more than 200 co-owners shown in the earlier suit. The said partition deed is also the subject matter in O.S.No.663 of 2008 on the file of the learned II Additional District Munsif, Tirunelveli, which was filed by one Sherin Benashir, who is also the similarly placed person that of the petitioner. The said suit was dismissed, holding that even though the validity of the partition deed dated 15.05.2006 cannot be decided in this suit, the said question is incidentally gone into and it is found that it is apparently invalid document on the face of it.

4.It is to be further noted that similarly, the suits in O.S.Nos.117 of 2010 and 85 of 2011 had been filed against the 104 people and against the respondents herein for declaration and recovery of possession. The said suits had been decreed in favour of the respondents. Now, the appeals are pending



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before this Court in A.S.(MD)Nos.84, 85 and 103 of 2016. In the meanwhile, based on the finding of the civil Court, the 3rd respondent has given a complaint before the registering authorities, who in turn, recorded a finding that the documents, dated 15.05.2006 in Document Nos.2766 and 2767 of 2006 have been fabricated and created by impersonation and further, made a recommendation for prosecution only in respect of those persons, who involved in the act of impersonation.

5.This Court is of the view that since the petitioner, who claims title in different source, has no way connected with the said act of impersonation, the question of challenging the said finding will not arise at all. Be that as it may, as far as the finding with regard to the restriction of further alienation is concerned, the same has to be set aside, since with regard to the same issue, the appeals are already pending before this Court in A.S.(MD)Nos.84, 85 and 103 of 2016. Therefore, any finding with regard to the title recorded by the 1st respondent will not be a binding on the parties and the rights will be decided only in the said appeals. It is made clear that since the petitioner claims that he has purchased only 20 cents, if any alienation is made by the petitioner by virtue of such purchase, the same will be subject to the result of the said appeals.



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6. With the above observation, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2024

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

Yuva

To

1. The District Registrar (Administration),
Tirunelveli.
2. The Sub Registrar,
Melapalayam, Tirunelveli District.



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N.SATHISH KUMAR, J.

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