



W.P(MD)No.25074 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.25074 of 2019

and

W.M.P(MD)Nos.21674 of 2019 & 25950 of 2024

R.Selvakani

... Petitioner

Vs

1.The District Registrar,
O/o.The District Registrar,
Palayamkottai,
Tirunelveli District.

2.The Sub Registrar,
O/o.The Sub Registrar,
Kommadikottai,
Thoothukudi District.

3.R.Chinnadurai

4.V.V.Minerals,
Represented by its Partner S.Jegadeesan ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the sale deed Document No.863 of 2010 dated 13.07.2010 on the file of the second respondent to quash the same and to make entry of the order in C.R.P(MD)No.153 of 2012, dated 15.06.2015 in the Encumbrance Certificate.



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For Petitioner : Mr.M.S.Suresh Kumar
For RR 1 & 2 : Mr.D.Sadiq Raja
Additional Government Pleader
For R – 4 : Mr.R.Aravind Raj

ORDER

This Writ Petition has been filed by the petitioner challenging the sale deed registered vide Document No.863 of 2010 dated 13.07.2010 on the file of the second respondent.

2.The petitioner owned property comprised in Survey No.609/2 subdivided as Survey Nos.609/2A & 609/2B measuring 4 acres 47 cents situated at Naduvakurichi Village, Kommadikottai, Thoothukudi District. While being so, in the year 1984, the petitioner's husband had taken a chit amount to the tune of Rs. 20,000/- from Sree Visalam Chit Funds Private Limited by pledging the property by depositing the title deed. Thereafter, her husband failed to repay the chit amount. Hence, the Sree Visalam Chit Fund Private Limited filed a suit in O.S.No.161 of 1986 on the file of the Sub Court, Thoothukudi for recovery of money failing which the mortgaged property should be brought for auction sale. The preliminary decree was passed on 11.02.1992. Thereafter, the



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Execution Petition was filed in E.P.No.13 of 2007 and the subject property was brought for auction sale on 17.08.2009. When it came to the knowledge of the petitioner, she filed an application in E.A.No. 79 of 2009 to set aside the ex-parte decree and the same was dismissed. Aggrieved by the same, the petitioner preferred a Civil Revision Petition in C.R.P(MD)No.153 of 2012 and this Court by order dated 15.06.2015, allowed the Revision Petition and set aside the auction sale. During the auction, the third respondent had purchased the subject property. As per the order passed by this Court in C.R.P(MD)No.153 of 2012, dated 15.06.2015, the petitioner had deposited the entire sale consideration and the same was also received by the third respondent. Before setting aside the order dated 15.06.2015, the third respondent had sold out the subject property in favour of the fourth respondent by the registered sale deed dated 13.07.2010 vide Document No.863 of 2010 on the file of the second respondent. Therefore, the petitioner challenged the sale deed by way of this Writ Petition.

3.Admittedly, the third respondent had sold out the subject property as early as on 13.07.2010 to the fourth respondent ie., much prior to the order passed by this Court in C.R.P(MD)No.



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153 of 2012, dated 15.06.2015. Therefore, the petitioner ought to have approached the civil Court for appropriate relief. In this Writ Petition, the sale deed which was executed by the third respondent in favour of the fourth respondent cannot be challenged. Hence, this Writ Petition is devoid of merits and the same is liable to be dismissed.

4. Accordingly, this Writ Petition is dismissed. The petitioner is at liberty to file a suit before the concerned Court, within a period of two weeks from the date of receipt of a copy of this order. The period of limitation to file the suit challenging the sale deed is hereby waived. The concerned civil Court is directed to take the suit on file if it is filed within the abovestated period and dispose of the same in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

**18.12.2024
(1/2)**

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



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To

- 1.The District Registrar,
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O/o.The Sub Registrar,
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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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(1/2)