



W.P. No.21668 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 29.08.2025

Order pronounced on: 24.11.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.21668 of 2025

and

W.M.P.Nos.24455 and 24478 of 2025

1. S.K.Geetha

2. C.Gajalakshmi

3. Dhanalakshmi

4. Sangeetha Ramkumar

... Petitioners

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

2. The District Registrar (Administration),
O/o. The District Registrar Chennai North,
Kuralagam, Chennai 600 108.

3. The Sub Registrar,
Tiruvotriyur Sub-Registrar Office,
Chennai North, Chennai.

4. S.Tamilselvan (since deceased)
Rep. by his legal heirs
S.Jagan and S.Gajalakshmi.



W.P. No.21668 of 2025

5. S.Jagan

6. S.Gajalakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in respect of registered Document No.8148/2022 dated 13.09.2022 on the file of the 3rd respondent wherein the property was settled by the respondents 5 and 6 in favour of Mr.S.Tamil Selvan (since deceased)/4th respondent rep., by his legal heirs S.Jagan and S.Gajalakshmi and declare the same as illegal and non est in the eye of the law and consequentially direct the official respondents to make necessary entries in Index II of the Registration Act so as to reflect in the encumbrance certificate disclosing that Mr.S.Tamil Selvan (since deceased)/4th respondent does not have the right over the property by registering the order to be passed in this writ petition.

For Petitioner(s) : Mr.Abdul Saleem, Senior Counsel
for M/s.V.J.Latha

For Respondent(s) : Mr.U.Baraidharan,
Special Government Pleader
for R1 to R3

Mr.D.Ashok Kumar
for R5 and R6

ORDER

The present writ petition is filed praying for a writ of certiorarified

mandamus to call for the records of the 3rd respondent in respect of registered Settlement Deed in Document No.8148/2022 dated 13.09.2022



and declare the same as illegal and non est in the eye of the law and consequentially direct the official respondents to make necessary entries in the encumbrance certificate.

2. Brief Facts:

2.1. Property comprised in S.Nos. 57/4A & B, 58/5, 58/6, 58/7 and 58/8, measuring an extent of 2.83 acres, situated at Idayanchavadi Village, Ponneri Taluk (hereinafter referred to as “subject property”), originally belonged to one S. Prabhakaran, brother of respondents 4 to 6. At the request of S.Prabhakaran (since deceased), Indian Overseas Bank sanctioned the following term loans viz., a) Term Loan No.5 of 1990 of Rs.6,00,000/- on 19.07.1990, b) Term Loan No.7 of 1990 of Rs.2,11,000/- on 27.08.1990, c) Term Loan No. 3 of 1991 of Rs.1,26,000 on 22.02.1991. The above term loans were repayable in 48 monthly instalments of Rs.12,500/-, Rs.4,400/- and Rs.6,625/-, commencing from January 1991, March 1991 and August 1991 respectively. As security for repayment of the said loans. Mr.S.Prabhakaran deposited title deeds of subject properties. Mr.S.Prabhakaran committed default in repayment of loan. A suit came to be filed before this Court in C.S.No.1334 of 1993 for recovery of a sum of Rs.18,07,723/- together with interest at 26% per



W.P. No.21668 of 2025

annum with quarterly rest. The suit in C.S.No.1334 of 1993 was transferred to Debt Recovery Tribunal II, Chennai (hereinafter referred to Tribunal) and renumbered as T.A.No.117 of 2001, which was disposed of by the Tribunal on 26.08.2002, finding that Indian Overseas Bank is entitled to a Recovery Certificate against the defendants therein namely, i) S.Prabakaran, Proprietor of Prabu Brick Works, ii) S.Kirubavathi, iii) K.A.Muthaleef, for a sum of Rs.18,07,723/- together with simple interest @ 16% p.a., from the date of plaint till the date of realization in full with costs and also to sell the property mentioned in Schedule A to G.

2.2. Pursuant to the above order, subject property was brought to auction under SARFAESI Act. In the public auction held on 12.05.2004, Dr. A.S. Leena was the highest bidder and a Sale Certificate dated 05.07.2004, vide Doc.No.3726/2004, was issued to her, along with Original parent documents. Dr.A.S.Leena later sold an extent of 2.42 acres to Mrs. S. Pushpadevi vide Doc. 7533/2007, and an extent of 0.41 acres to Mr. C. Devendran vide Doc. 7534/2007.

2.3. It is submitted by the learned Counsel for petitioners that, between 2017 and 2018, petitioners' spouses purchased the entire extent of 2.83 acres of subject property from Mrs.S.Pushpa Devi and Mr.C.Devendran through seven registered sale deeds (Doc. Nos. 5427–



W.P. No.21668 of 2025

5432/2017 and 3191/2018), after producing the Original title deeds before the Sub-Registrar. Subject properties were subsequently settled by the spouses in favour of petitioners under seven Settlement Deeds dated 17.06.2024, registered as Doc.Nos. 6227–6232/2024 and 6310/2024.

2.4. Respondents 4 to 6 allegedly in collusion with 3rd respondent registered a Settlement Deed in Doc.No.8148/2022 dated 13.09.2022, whereby 2/3rd undivided share measuring 1.93 acres out of 2.90 acres of the subject property purchased by the spouses of the petitioners was settled by respondents 5 and 6 in favour of 4th respondent.

2.5. Meanwhile, 4th respondent submitted a representation dated 20.01.2023 to the 2nd respondent/District Registrar (Administration), alleging that the sale deed executed in favour of the spouses of the petitioner are illegal and prayed to cancel the entries made in the encumbrance certificate.

2.6. Above representation was considered and after enquiry, an order dated 11.10.2023 came to be passed by the 2nd respondent wherein,



W.P. No.21668 of 2025

it was observed that on the basis of documents, it was evident that the subject property was sold to Dr.A.S.Leena pursuant to the order of Tribunal, in T.A.No.117 /2001 by the Hon'ble Presiding Officers, Debts Recovery Tribunal, Chennai under Section 19(22) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Act 51 of 1993) and a Sale Certificate was issued in evidence thereof. Further if aggrieved, 4th respondent may file appropriate suit praying for declaration of title over subject property. The relevant portion reads as follows:-

“vdnt nkW;fz;l Mtz Mjhu';fis Ma;t[bra;jjpy;
vjph;kDjhuUf;F jpUbthw;wpa{h; rhh;gjpthsh; mYtyf Mtz vz;
3726/2004 fpiuarhd;W lhf;lh; yPdh j/bg brt;uh\$; vd;gtUf;F
Government of India Ministry of Finance – Certificate of Sale
T.A.No.117/2001 of the Recovery of Debts Due to Banks and
Financial Insitutions Act, 1993 (Act 51 of 1993) K:yk; tHf;fpyhd
brhj;J Mtzk; gjpt[bra;ag;gl;Ls;sjhy; kDjhuh; jdf;F brhj;Jhpik
Fwpj;J chpa chpikapay; ePjpkd;wk; K:yk; ghpfhuk;
njof;bfhs;s bjhptpj;J mt;thnw Mizaplg;gLfpwJ.”

2.7. It is in these circumstances, present writ petition came to be filed by the petitioner.



W.P. No.21668 of 2025

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3. To the contrary, learned counsel for respondents 5 and 6 would submit that the property mentioned in the impugned settlement deed belonged to their mother Mrs.S.Kirubavathi. Thereafter, subject property was settled by their mother Mrs.S.Kirubavathi in favour of Mr.S.Prabhakaran vide Settlement Deed dated 07.05.1990 registered as Document No.2231 of 1990. Mr.S.Prabhakaran died on 02.05.2010, intestate and his mother died on 15.04.2018. Respondents 5 and 6 were the legal heirs of Mr.S.Prabhakaran along with Mr.Tamilselvan. A Settlement Deed was executed in favour of 4th respondent by 5th and 6th respondents, ie., brother and sister of 4th respondent on 13.09.2022 vide Document No.8148 of 2022. Respondents' mother Mrs.Kirubavathi filed a Miscellaneous Application in M.A.No.36 of 2012 in T.A.No.117 of 2001 for return of original documents relating to the subject property. The Tribunal dismissed the above application vide order dated 12.06.2012.

3.1. Thereafter, a representation dated 20.01.2023 was submitted by the 4th respondent alleging that the sale deeds executed in favour of the



W.P. No.21668 of 2025

spouses of the petitioners are illegal and further prayed to cancel the entries made in the encumbrance certificate. Order dated 11.10.2023 came be to passed rejecting the said representation, which is wholly erroneous.

4. Heard both sides perused the material on record.

5. This Court is of the view, there is merit in the case of the petitioner for the following reasons:

a) The right of redemption, if any, with the borrower i.e., S.Prabhakaran stood extinguished from the date of publication of the notice for public auction in terms of Rules 9(1) of SARFAESI Rules, 2002. In the present case, Bank had brought to auction subject properties, pursuant to the orders of the Tribunal issuing a recovery certificate to Indian Overseas Bank in T.A.No. 117 of 2001. Auction was concluded on 12.05.2004. A Sale Certificate dated 05.07.2004 came to be issued in favour of Dr.A.S.Leena, highest bidder in public auction. Subsequently, Dr.A.Leena sold the subject properties to Mrs.Pushpavathi and Mr.C.Devendran vide sale deed registered as Document Nos.7533 of 2007 and 7534 of 2007, measuring an extent of 2.42 and 0.41 acres

8/17



respectively. Thus, any right of redemption with Mr.S.Prabhakaran stood extinguished with the publication of notice for public auction issued in 2004. In this regard, it may be relevant to refer to the judgment of the Hon'ble Supreme Court in *Celir LLP Vs. Bafna Motor (Mumbai) Private Limited and Others* reported in 2024 (2) SCC Page 1 wherein, it was held as under:

“110.3. *In accordance with the unamended Section 13(8) of the Sarfaesi Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset. In other words, the borrower's right of redemption did not stand terminated on the date of the auction-sale of the secured asset itself and remained alive till the transfer was completed in favour of the auction-purchaser, by registration of the sale certificate and delivery of possession of the secured asset. However, the amended provisions of Section 13(8) of the Sarfaesi Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the 2002 Rules. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the 2002 Rules and not till the completion of the sale or transfer of the secured asset in favour of the auction-purchaser.”*

(emphasis supplied)

6. In the circumstances, it is clear that Settlement Deed dated 13.09.2022 executed by Respondents 5 and 6 in favour of 4th Respondent, 18 years subsequent to sale of subject properties in auction, pursuant to



W.P. No.21668 of 2025

the order of the Tribunal in T.A.No.117 of 2001 reeks of malice and is a brazen attempt at circumventing rather disregarding order of Tribunal in T.A.No.117 of 2001 and the consequential auction.

6.1.Importantly, Settlement Deed dated 13.09.2022 and its registration is brazenly deceitful and intended to illegally grab lands belonging to the petitioner over which none of the respondents have any right. This would be evident if we bear in mind that subject property was offered as security by S.Prabhakaran who is none other than the brother of respondents 5 and 6. Due to default property was brought to auction pursuant to the order of Tribunal in T.A.No.117/2001. Mrs.Prabavathi, mother of respondents 5 and 6, had earlier filed a miscellaneous application in M.A.No.36 of 2012, in the above T.A seeking return of the original documents which was rejected. Registration of Settlement Deed dated 13.09.2022, whereby subject property was settled by respondents 5 and 6 in favour of respondent 4 i.e., after almost 18 years since the property was brought to auction, which was followed by subject property being sold by auction purchaser Dr.A.S.Leena to Mrs.Pushpadevi and Mr.C.Devendran and a subsequent sale by them in favour of spouses of petitioners and finally property being settled in favour of the petitioners by their spouses reeks of malice and fraud.



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6.2. From the above sequence of facts, the inescapable conclusion is that settlement deed in respect of the subject property executed by respondent 5 and 6 in favour of respondent 4, cannot but be a fraud. It is trite that fraud vitiates the most solemn acts. Fraud avoids all acts ecclesiastical or temporal¹. Act of fraud can be challenged in any Court at any time in Writ, Appeal, Revision or even in collateral proceedings. The effect of fraud is to render the act a nullity and non est in the eye of law and thus warrants interference. In this regard it may be relevant to refer to the following judgments:

i) In State of A.P. v. T. Suryachandra Rao, reported in (2005) 6 SCC 149

“8. By “fraud” is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from ill will towards the other is immaterial. The expression “fraud” involves two elements, deceit and injury to the person deceived. Injury is something other than economic loss, that is, deprivation of property, whether movable or immovable, or of money, and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver, will almost always cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied.

¹. A.V.Paayya Sastry v. Govt of A.P., (2007) 4 SCC 221
11/17



W.P. No.21668 of 2025

Fraud as is well known vitiates all solemn acts. Suppression of a document, it is also trite, may amount to fraud on the court. The effect of commission of fraud must be taken note of.”

ii) A.V. Papayya Sastry v. Govt. of A.P., reported in (2007) 4 SCC 221:

“21. Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed:

‘Fraud avoids all judicial acts, ecclesiastical or temporal.’

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order—by the first court or by the final court—has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.”

(emphasis supplied)

6.3. Having found that Settlement Deed dated 13.09.2022 executed

by the Respondents 5 and 6 in favour of the 4th Respondent as an act of fraud inasmuch as it was intended to deceive and cause detriment/injury to actual owners of subject property ie., petitioner by respondents 4 to 6, none of whom have any right, over the subject property. In the circumstance, this Court is of the view that power under Article 226 of the Constitution ought to be exercised. In this regard it may be relevant to refer to the judgment of this Court in the case of *J.Jayaniithaa v. 12/17*



Inspector General of Registration and others, in W.P.Nos.18721, 18725 and 18730 of 2020, wherein it was held as under:

“9. The above stated facts clearly establishes that the 4th respondent and his father do not have any regard for orders passed by any Court or Authority. In spite of failing before the Competent Civil Court, the father of the 4th respondent has executed a Settlement Deed without any semblance of right. It looks as if, the 4th respondent and his father will keep executing documents with regard to the subject property and unfortunately the 3rd respondent is mechanically entertaining the documents and registering the same. There is no provision in the Registration Act which enables the official respondents to cancel any document or any entry made in the records. In a situation like this, expecting the parties to go before the Civil Court every time an illegal document is registered, makes it almost impossible for the real owner of the property to deal with his own property. It is a known factor that proceedings initiated before the Civil Court does not come to an end that quickly and it is a long drawn journey.

10. In a case of this nature, this Court has to necessarily find a way out in exercise of its Jurisdiction under Article 226 of the Constitution of India. It is clear from the above that the Settlement Deed has been executed by the father of the 4th respondent without any right, title or or authority and the Settlement Deed dt. 15.04.2015 is non est in the eye of law. This is the second time this Court is dealing with the rights of the petitioners and the relevant portions extracted supra from the



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W.P. No.21668 of 2025

earlier Orders passed by this Court, is enough to establish the right of the petitioners over the subject property. In the present Writ Petitions, the same can only be reiterated by this Court.

11. In view of the above, this Court holds that the Settlement Deed dt. 15.04.2015, registered as Document Nos.2637 and 2638 of 2015 executed by the father of the 4th respondent in favour of the 4th respondent as non est in the eye of law. The petitioners shall present this order for registration before the 3rd respondent and the 3rd respondent shall register the same on payment of the necessary stamp duty and registration fees. By such registration, the earlier entries made in Document Nos. 2637 and 2638 of 2015, will get automatically reversed.

(emphasis supplied)

7. Normally, this Court would be loathe in entertaining a plea of fraud as it may require letting in of evidence but in the present case fraud is discernible on the face of the record. Fraud in the present case is exfacie and manifestly glaring from the records. Conclusion of fraud is inescapable. In such circumstance, it is only appropriate that jurisdiction of this Court under Article 226 of the Constitution is exercised.

8. In view thereof, this Court is of the view that the Settlement



W.P. No.21668 of 2025

Deed dated 13.09.2022, registered as Doc.No.8148/2022 executed by respondents 5 and 6 in favour of respondent 4 is void and non est in the

eye of law. 2nd respondent is directed to make necessary entries of this order in Index II of the Registration Act.

9. Accordingly, the writ petition stands disposed of. No costs.

Cosequently, connected miscellaneous petitions are closed.

24.11.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.
2. The District Registrar (Administration),
O/o. The District Registrar Chennai North,
Kuralagam, Chennai 600 108.
3. The Sub Registrar,
Tiruvotriyur Sub-Registrar Office,

15/17



Chennai North, Chennai.

WEB COPY



W.P. No.21668 of 2025



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W.P. No.21668 of 2025

MOHAMMED SHAFFIQ, J.

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W.P. No. 21668 of 2025

24.11.2025