

W.P.(MD)No.6463 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.03.2025

CORAM

THE HONOURABLE **MR.JUSTICE V. LAKSHMINARAYANAN**

W.P.(MD)No.6463 of 2018

Ramesh

... Petitioner

vs.

1.The Inspector General of Registration,
Santhome,
Chennai.

2.The District Registrar,
District Registration Office,
Cantonment,
Trichy -1.

3.The Sub Registrar,
Woraiyur Sub Registration Office,
Woraiyur,
Trichy – 3.

4.Dhanapackiam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to cancel the lease deed in Doc.No.3601 of 1999, dated 30.10.1990 executed in favour of Mrs.Dhanapakiyam for the property in S.F.No.55/7, measuring an extent of Ac.0.62 cents in Solanganallur Village,



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Nachikurichi Panchayat, Tiruchirappalli Taluk and District.

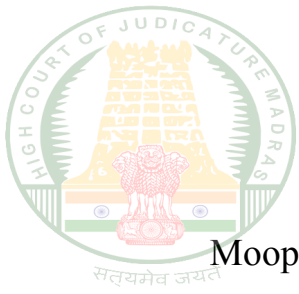
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For Petitioner : Mr.Savarimuthu
for M/s.S. Vinod Sathya Lazar
For Respondents 1 to 3 : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present Writ Petitioner seeks for a Mandamus to direct the respondents 1 to 3 to cancel the lease deed in document No.3601 of 1990, dated 30.10.1990 executed in favour of one Mrs.Dhanapackiyam for the property situated in S.F.No.55/7 measuring an extent of Ac.0.62 cents in Solanganallur Village, Nachikurichi Panchayat, Tiruchirappalli Taluk and District.

2. The petitioner claims that the property originally belonged to one Raju Moopan. The said Raju Moopan executed a sale deed in favour of the petitioner on 15.06.1987. After the transfer made in favour of the Writ Petitioner, two persons viz., Jayaraj and Dhanapackiyam registered lease deeds, dated 30.08.1990 in their favour from Raju



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Moopan and claimed to be in possession of the property.

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3. On the strength of these documents, the aforesaid persons filed a suit in O.S.No.777 of 1991 on the file of the II Additional District Munsif at Tiruchirappalli claiming tenancy rights. The suit came to be dismissed on 29.04.1999. Aggrieved by the same, the said Jayaraj and Dhana Packiyam preferred an appeal in A.S.No.354 of 1999 on the file of the Subordinate Court at Thiruchirappalli. The Appeal Suit was dismissed as withdrawn on 21.07.2015.

4. Subsequent to the withdrawal of the appeal suit, one of the two plaintiffs, viz., Jayaraj voluntarily executed a tenancy release deed in favour of the Writ Petitioner. Mrs. Dhanapackiyam did not adopt the same course of action. Hence, the petitioner sent a representation dated, 16.03.2016 to the second respondent and sought for cancellation of the lease deed executed in her favour. The request of the petitioner came to be rejected by the impugned order. Hence, this Writ Petition.

5. I have heard Mr.Savari Muthu for M/s. S. Vinod Sathya Lazar



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learned counsel for the petitioner and Mr.N.Arumugam, learned Government Advocate for the respondents 1 to 3.

6. Mr.Savari Muthu, relying upon Rule 118 of the Tamil Nadu Registration Rules, pleads that once the Civil Court has declared a document to be fraudulent, it is the duty of the respondents to cancel the said document. For this proposition, he relies upon ***T.Mathesan Vs. the District Registrar (Administration) and others*** in ***W.P(MD).No.8451 of 2020, dated 20.04.2021***. Mr.Savari Muthu, pleads that the said Raju Moopan had passed away in the year 1988 and the two lease deeds come into existence only in the year 1990 and that in these circumstances, the alleged lease documents have to be declared as fraudulent.

7. Mr.N. Ramesh Arumugam, learned Government Advocate relied upon the impugned order and states that the appropriate remedy for the petitioner is before the Land Grabbing Cell by launching a prosecution against the said Jayaraj and Dhanapackiyam. If a direction is given to the Sub Registrar, he will implement the same.



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8. I have carefully considered the submissions of both sides.

9. In order to apply Rule 118 of the Registration Rules, two essential conditions have to be fulfilled. First, a Court must have declared a document to be a forgery to have been registered under admission made by a person, who falsely personated the executants. A note calling attention to the fact shall be entered at the foot of the entry in the register and when practicable on the document itself. Even if Rule 118 were to be applied in full force, it does not contemplate the power of cancellation of the document. At best, after the decree of the Civil Court, an entry will be made on the document and the register to the fact that the document has been declared as fraudulent by jurisdictional Civil Court.

10. Insofar as the reliance placed by the learned counsel, Mr.Savarimuthu to the suit in O.S.No.777 of 1991 is concerned, the decree shows that it is a suit for bare injunction and it is not a suit for declaration. It is possible for the Civil Court to grant an injunction in a declaration suit, but, it is not possible for the Civil Court to declare on the veracity of the documents in the suit for injunction. At the best, it



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will be another observation to come to the conclusion.

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11. Further more, the dismissal of the suit presented by the plaintiff does not amount to a decree in favour of the defendants. When a suit for injunction is dismissed, the Court merely comes to the conclusion that the plaintiff is not entitled to the relief of prohibitory injunction sought for by him. This does not mean that the defendants are in possession of the property or it amounts to declaration of the document, on the basis of which the plaintiff has filed the suit, as fraudulent. If Mr.Savarimuthu, relies upon Rule 118, it is for his client to present the suit for declaration of the document as fraudulent and after obtaining a decree, to present a petition invoking Rule 118. I am certain if a Civil Court were to declare the document to be fraudulent, the respondents will be duty bound to make an entry as required under Rule 118 of the Tamil Nadu Registration Rules. In the absence of decree to that effect, I am not in a position to rescue Mr. Savarimuthu's client.

12. Since the existence of the document on the file of the 3rd respondent every day gives a fresh cause of action to the plaintiff to seek



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for such removal, it is open to the petitioner to present a suit even today for declaration that the document is fraudulent and also obtain a mandatory injunction to the 3rd respondent to make the entry as under Rule 118 of the Tamil Nadu Registration Rules.

13. Leaving that course of action open to the petitioner, this Writ Petition is dismissed. No costs.

Index :Yes / No
NCC :Yes / No
trp

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V. LAKSHMINARAYANAN, J.

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