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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. NO.417 OF 2021

AND

W.M.P.NO.499 OF 2021

Kalyankumar

... Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 28.
2. The District Registrar (Administration)
District Collectorate,
Villupuram.
3. The Sub Registrar,
Vikravandi,
Villupuram District.
4. Lakshmi Ammal.
5. Senthilkumar

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the third respondent pertaining to the impugned settlement deed dated 16.11.2020 registered as document No.3561/2020 on the file of the SRO, Vikravandi, executed by the fourth respondent in favour of the fifth respondent and to quash the same and consequently, direct the third respondent to remove the entry in encumbrance in respect of the settlement deed dated 16.11.2020 registered as document No.3561/2020 on the file of the SRO, Vikravandi, insofar as new natham S.No.313/8-200 sq.mtrs (old S.No.187/4-0.05 cents) at Mundiambakkam Village, Vikravandi Taluk.



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For Petitioner : Mr.N.Suresh
For Respondents : Mr.Yogesh Kannadasan
For R1 to R3 : Government Advocate.
For R4 & R5 : Mr.V.Tamizhanban

ORDER

The Writ Petition has been filed to call for the records of the third respondent pertaining to the impugned settlement deed dated 16.11.2020 registered as document No.3561/2020 on the file of the SRO, Vikravandi, executed by the fourth respondent in favour of the fifth respondent and to quash the same and consequently, direct the third respondent to remove the entry in encumbrance in respect of the settlement deed dated 16.11.2020 registered as document No.3561/2020 on the file of the SRO, Vikravandi, insofar as new natham S.No.313/8-200 sq.mtrs (old S.No.187/4-0.05 cents) at Mundiyaibakkam Village, Vikravandi Taluk.

2. The case of the petitioner is that the property comprised in S.No.313/8 old S.No.187/4, ad measuring 200 sq.mtrs situated at Mundiyaibakkam Village, Vikravandi Taluk, originally belonged to the father of the petitioner. However, the fourth respondent claims right over the said property and attempted to intercept there on. Therefore after demise of his father, the petitioner and his mother filed suit in O.S.No.230 of 1991 on the file of the Principal District Munsif, Villupuram, for declaration and injunction in respect of the said property along with other properties comprised in natham S.No.313/8. The fourth respondent herein was the third defendant in the said suit and she contested the said suit. The said suit was initially decreed in respect of the first item of the property by the judgment decree dated 30.08.1993. However, the entire property was decreed by the judgment and decree dated 17.04.1995 by the appellate Court in A.S.No.307 of 1994 on the file of the Principal District Court, Villupuram and it is upheld by the Hon'ble Supreme Court of India by an order dated 23.03.2015 in Special Leave to Appeal (C).23245 of 2008.

3. Thereafter, the fourth respondent herein did not allow to implement the decree. As such the petitioner filed petition in E.A.No.717 of 2007 in O.S.No.230 of 1991, seeking police aid to implement the order of injunction. Though the petition was dismissed on 06.12.2007, the said order was set aside by this Court in C.R.P.No.1 of 2008. Thereafter, the petitioner was put



in possession and he put up compound wall in and around the subject property. Further the fourth respondent filed a review petition in Review Application No.32 of 2008 as against the order passed in the Civil Revision Petition and the same was also dismissed by this Court by an order dated 04.03.2008. In the mean time, patta was issued in favour of the petitioner's mother in patta No.549. The said patta was challenged by the fourth respondent before the Assistant Settlement Officer, Tiruvanamalai, and the same was also dismissed on 18.09.1996. Aggrieved by the same the fourth respondent filed revision before the District Revenue Officer and the same was also dismissed by an order dated 31.03.1999 and it became final.

4. While being so, the petitioner's mother executed Settlement Deed dated 30.06.2015 registered vide document No.2376 of 2015 on the file of the third respondent in favour of the petitioner. While presenting the Settlement Deed for registration, to prove the title over the property, the petitioner and his mother produced all the judgments and decrees passed in their favour and also the patta issued in the mother's name. All the documents were part and parcel of the Settlement Deed. After execution of the settlement deed, the petitioner was issued patta in Patta No.549 and thereafter, the petitioner is in possession and enjoyment of the subject property.

5. On the other hand, the fourth respondent claimed title over the property on the strength of the sale deed dated 07.11.1991 registered vide document No.462 of 1991. However, the title was declared in favour of the petitioner and his mother in the suit filed by them in O.S.No.230 of 1991. Further the fourth respondent executed Settlement Deed in favour of the fifth respondent on 16.11.2020 and presented the same before the third respondent for registration and the same was also registered in document No.3561 of 2020. Therefore, the petitioner filed this Writ Petition, challenging the impugned Settlement Deed dated 16.11.2020 and sought for a direction to the third respondent to remove the entry in encumbrance in respect of the subject property.

6. Heard Mr.N.Suresh, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Government Advocate appearing for the respondents 1 to 3 and Mr.V.Tamizhanban, learned counsel appearing for the respondents 4 & 5.

7. While pending the Writ Petition, the petitioner lodged complaint before the second respondent and on receipt of the same, the second respondent, conducted detailed enquiry. The second respondent also called for report from the third respondent.



8. On perusal of report reveals that on receipt of the settlement deed executed by the fourth respondent in favour of the fifth respondent, the third respondent verified the document and it was found that the fourth respondent claimed the subject property together with bore well, electricity service connection and claimed that the said property was purchased from one S.Chockalingam by the sale deed dated 07.11.1997 registered vide document No.462 of 1991. The said document was verified and found that the said S.Chockalingam had purchased the said property from one R.Chandramoorthy, under the sale deed dated 28.08.1986 registered vide document No.1787 of 1986. On verification of the said document, it was found that the said R.Chandramoorthy had purchased the said property in public auction in O.S.No.497 of 1979 on the file of the District Munsif Court, Villupuram in E.P.No.193 of 1984. The said sale was confirmed, as per the sale certificate dated 13.03.1985. On the basis of those documents, the third respondent registered the settlement deed presented by the fourth respondent in favour of the fifth respondent. Therefore, the third respondent has no other reason to register the sale deed including the settlement deed executed in favour of the petitioner by his mother in the year, 2015 registered vide document No.2376 of 2015.

9. On the basis of the said report, the second respondent passed orders on 03.05.2021 and concluded that the sale deed registered vide document No.462 of 1991 and the settlement deed executed by the petitioner's mother vide document No.2376 of 2015 and the settlement deed executed by the fourth respondent in favour of the fifth respondent vide document No.3561 of 2020 are wrongly registered and the same is against the circular issued by the first respondent, and therefore, directed the third respondent to make entry in the encumbrance in respect of the aforesaid documents.

10. It is also seen that the petitioner filed petition in E.A.No.717 of 2007 in O.S.No.230 of 1991 on the file of the District Munsif Court, Vikkiravandi, seeking police aid to implement the decree of injunction granted in O.S.No.230 of 1991 and the same was allowed. Aggrieved by the same the fifth respondent herein preferred a Civil Revision Petition and the same is pending in C.R.P.No.1931 of 2021. That apart, the fifth respondent also filed suit in O.S.No.310 of 2021 on the file of the Sub Court, Villupuram and it is pending for adjudication.

11. On perusal of the judgments and decrees passed in favour of the petitioner's mother in O.S.No.230 of 1991 revealed that the petitioner's mother had title over the property and on the strength of the same, she executed settlement deed in favour of the petitioner. Even then, the fourth respondent executed



settlement deed in favour of the fifth respondent on the strength of the sale deed dated 07.11.1991 registered vide document No.462 of 1991.

12. Therefore, the fourth respondent has no right or title over the subject property to execute the settlement deed in favour of the fifth respondent and it is non-est in the eye of law. Accordingly, the third respondent is directed to make entry in encumbrance in respect of the subject property by removing the entry of the settlement deed dated 16.11.2020 registered vide document No.3561 of 2020.

13. With the above directions, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 28.
2. The District Registrar (Administration)
District Collectorate,
Villupuram.
3. The Sub Registrar,
Vikravandi,
Villupuram District.

+3ccs to Mr.N.Suresh, Advocate, S.R.No.61676

+1cc to the Government Pleader, S.R.No.62231

W.P. No.417 of 2021
and W.M.P.No.499 of 2021

KG(CO)
RLP(27/12/2021)