
(2011) 03 MAD CK 0441

In the Madras High Court

Case No : Writ Petition No. 28869 of 2010

B. Shanmugasundaramurthy

APPELLANT

Vs

The Sub Registrar and The District Register

RESPONDENT

Date of Decision : 02-03-2011

Acts Referred:

Registration Act, 1908 — Section 55(2)
Registration Rules, 1908 — Rule 140

Citation : (2011) 03 MAD CK 0441

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : C. Venkatesan, for R. Murugabharathi, for the Appellant; S. Sivashanmugam, G.A., for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner has come to this Court by filing the writ petition seeking a Mandamus directing the Respondents to consider the Petitioner's representation dated 20.09.2010 and pass order on merit.

2. The Petitioner claiming to be the owner of plot Nos. 31, 32, 33 as per LP/R (CN) No. 127/85 - Plots Layout plan approved by the Senior Deputy Director of Town and Country Planning, Coimbatore-Periyar-Nilgris Region, Government of Tamilnadu and as per Document No. 1592 of 2005 dated 20.05.2005 registered with the office of Sub Registrar, Thondamuthur as come to this Court with the prayer to issue writ of Mandamus to consider his representation dated 20.09.2010 whereby the Petitioner has made a request to the Sub-Registrar, the 1st Respondent herein to make alterations in registration entries made u/s 55(2) of Registration Act Rules 140 to 146 to avoid double registration and further encumbrance within 7 days from the date of receipt of the notice dated 20.09.2010.

3. According to the Petitioner, the Petitioner purchased three house plots, namely, Plot Nos. 31, 32 and 33 on 20.05.2005 from one Mr. v.

Shanmugasundaram from Coimbatore Registration District, Thondamuthur Sub Registration District for the purpose of construction of residential buildings.

4. Therefore, the Petitioner immediately issued notice to all the people who were in illegal possession of his property, namely, the plot Nos. 31, 32 and 33 claiming his possession. The above mentioned persons denied access to the Petitioner showing their documents of ownership created in their name with regards to the sale agreements and other documents related to. Subsequently, the Petitioner with great pain had access to the documents in possession of the other encroachers who subsequently claimed to be the owner of his own plot Nos. 31, 32 and 33. When the documents has been detected from the Revenue records of the Veerakeralam Village, Thondamuthur Sub Registrar Office, the same were found to be created in their names creating fake title and ownership of the house plots and further the Petitioner came to know that dual registration was made in the name of two different persons for three different properties.

5. But when the Petitioner has purchased the properties on 20.05.2005 from one Mr. v. Shanmugasundaram by executing a valid Sale Deed for valuable consideration, there cannot be one more registration. Therefore, the Petitioner has made a representation dated 20.09.2010 seeking to make alterations in registration entries made u/s 55(2) of Registration Act Rules 140 to 146 to avoid double registration and further encumbrance within 7 days from the date of receipt of the notice dated 20.09.2010, but no response came from the Respondents. Hence the Petitioner has come to this Court seeking a Mandamus to consider his representation dated 20.09.2010.

6. In reply, the learned Government Advocate appearing for the Respondent submits that this Court cannot give any direction, much less any observation in favour of the Petitioner for considering his representation for the reason that whether the Petitioner is the owner or the other persons namely, N.P. Suresh of Coimbatore, N. Magesh Kumar of Coimbatore and S. Sathish Saravanan and Roopa Prabakar of Coimbatore are the owners are to be gone to by the Civil Court before carrying out alterations in the records of the Sub-Registrar. Otherwise, it will amount to effecting Unilateral Sale Deed by the Sub-Registrar, 1st Respondent herein.

7. In support of his submission he has also relied upon a judgment of the Hon"ble Full Bench in W.A. Nos. 592 and 938 of 2009 dated 11.02.2011 wherein, the Hon"ble Full Bench by holding the order passed by a learned Single Judge of this Court as proper made it clear that no unilateral cancellations of Sale Deed can be registered for the reason that any unilateral cancellation of sale deeds without the express consent of the parties to the documents has no existence in the eye of law, for, once a sale is made absolute by transfer of ownership of the property from the vendor to the purchaser, such transfer cannot be annulled or cancelled by the vendor by executing a deed of cancellation unilaterally.

8. Therefore, the ratio laid down by this Court in the above mentioned Full Bench

judgment will answer the issue raised in the present writ petition against the Petitioner. In view of the same, the prayer sought for is not legally sustainable. Accordingly, the writ petition is dismissed. However, it is open to the Petitioner to approach the Civil Court for appropriate relief if he is so advised.

9. With this observation, the writ petition is dismissed. No costs.