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Court : Chennai Madurai

Decided On : Jun-30-2016

Judge : M. Venugopal

Appeal No. : Writ Petition (MD). No. 11653 of 2016

Appellant : Rajamani

Respondent : The Inspector General of Registration, Tamil Nadu Registration Department and Others

Judgement :

(Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondents 2 and 3 to consider the representation of the petitioner dated 26.03.2016 to cancel the Fraudulent Gift Deed registered in Document No.1317/2015 dated 17.06.2015 with respect to the properties comprised in Survey No.68/2 (sub divided) measuring an extent of 89 cents which situates at Ambadurai Village, Aathur Taluk, Chinnalapatty Sub Division, Dindigul District and the same to take appropriate action within a stipulated time.)

1. Heard the Learned Additional Government Pleader appearing for respondents. No counter is filed on behalf of the respondents.

2. The grievance of the petitioner is that his representation dated 26.03.2016, addressed to the respondents 1 to 3, seeking to cancel the fraudulent gift deed dated 17.06.2015 has not seen the light of the day till date. Hence, he has filed the present writ petition before this Court.

3. According to the Petitioner, the properties comprised in Sy.No.68, measuring an extent of 4.4 acres and sy.No.69/2, measuring an extent of 1.30 acres, situate at Ambathurai Village, Chinnalapatty Sub Division, Dindigul District belong to his father viz., Vellaiyan Servai @ Marudahi Servai by way of registered sale deed dated 18.11.1966. From that date onwards, he was in possession and enjoyment of the properties without making any encumbrances whatsoever.

4. The version of the petitioner is that due to misunderstanding between their family members, one of the brothers viz., Kalimuthu had left from the joint Hindu family. Therefore, on 01.07.1980, he executed a registered release deed in favour of the petitioner, his father etc., Unfortunately, on 13.08.1987, petitioner's father died and his mother also expired. After their demise, the petitioner has taken his own share in the property and enjoyed the same. With a view to get separate patta in his favour in respect of the property in question, he filed a suit in O.S.No.583/2013 on the file of the Learned Second Additional District Munsif, Dindigul, seeking a prayer for issuance of legal heir certificate to himself, his sister and his brothers and the suit was decreed on 22.08.2014.

5. The categorical stand of the petitioner is that the petitioner's brother, Kalimuthu, who separated from the joint family, by executing a release deed in the year 1987, had criminally conspired with other persons viz., Rani, Krishnan, Krishnamoorthy and Emanuvel and executed a unlawful gift deed in favour of Rani in respect of the properties comprised in sy.No.68/2 (sub divided), measuring an extent of 89 cents, situate at Ambadurai Village, Aathur Taluk, Chinnalapatti Sub Division, Dindigul District. Therefore, he preferred a complaint against them before the Inspector of Police, District Crime Branch, Dindigul. The Inspector of Police had directed him to approach the third respondent and closed the complaint.

6. The petitioner, as per the direction of the Inspector of Police, District Crime Branch, approached the third respondent/Sub-Registrar, Chinnalapatty, Dindigul

District to cancel the disputed document in question, but till date, he has not been successful in this regard. Furthermore, he approached the third respondent, on enormous occasions to remove encumbrances pertaining to the document, dated 17.06.2015. However, the third respondent had not taken any action to clear the encumbrances on the property. Therefore, he was constrained to address a representation to the respondents on 26.03.2016.

7. At this stage, this Court has perused the copy of the representation, dated 25.03.2016, addressed to the respondents 1 to 3 and it is quite evident that the petitioner has shown five persons as opposite parties, in the said representation.

8. In view of the fact that the petitioner's representation dated 26.03.2016, addressed to the respondents 1 to 3 is pending till date, without any progress, in the subject matter in issue, at this stage, this Court, without expressing any opinion on the merits and contents of the representation of the petitioner, dated 26.03.2016 and also not delving deep into the same, simply directs the second respondent/District Registrar, Dindigul Registration Limit, Dindigul District, to look into the representation of the petitioner dated 26.03.2016, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the second respondent/ District Registrar, Dindigul Registration Limit, Dindigul District is to pass a speaking order on merits in a free, fair, unbiased and dispassionate manner (Of-course, after affording necessary opportunity to the petitioner and others concerned, by following the principles of Natural Justice, in true letter and spirit), within a period of eight weeks thereafter. The petitioner is directed to lend his co-operation and assistance to the second respondent/ District Registrar, Dindigul Registration Limit, Dindigul District, so as to enable him to dispose of the representation in question, within the time determined by this Court. Liberty is granted to the petitioner to produce necessary documents/records before the second respondent/ District Registrar, Dindigul Registration Limit, Dindigul District. In case, the petitioner produces the relevant records/documents, the second respondent/ District Registrar, Dindigul Registration Limit, Dindigul District, shall look into the same and to pass necessary orders on the representation of the petitioner, dated 26.03.2016, within the time fixed by this Court, as stated supra.

9. With the aforesaid observation(s) and direction(s), the writ petition stands disposed of.

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