

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7176 of 2014 (V)

PETITIONER(S):

C.K.RAVIKUMAR, AGED 64 YEARS,
S/O.KUTTAN NAIR, KOLLAMVILAKKATTU VEEDU, KARAMANA,
MELARANOOR, THYCAUD, THIRUVANANTHAPURAM.

BY ADVS.SRI.SABU S.KALLARAMOOLA
SRI.JOSH RAJAN (NALANCHIRA)

RESPONDENT(S):

1. STATE OF KERALA,
DEPARTMENT OF REGISTRATION, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,
REPRESENTED BY PRINCIPAL SECRETARY-695 001.
2. INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM-605 035.
3. DISTRICT REGISTRAR (GENERAL),
1ST FLOOR, TRANSPORT BHAVAN BUILDING, EAST FORT,
THIRUVANANTHAPURAM-695 001.
4. SUB REGISTRAR,
MALAYINKIL SUB REGISTRAR'S OFFICE, MALAYINKIL,
THIRUVANANTHAPURAM-695 571.
5. VILLAGE OFFICER,
VILAVOORKKAL VILLAGE OFFICE, VILAVOORKKAL,
THIRUVANANTHAPURAM-695 007.
6. J.WILSON, AGED 60 YEARS,
S/O.JAMES, KUZHIVILA VEEDU, PAVAKOTTUKONAM VILAVOORKAL,
THIRUVANANTHAPURAM, NOW RESIDING AT ASOKA HOUSE,
NO.MSRA-2D, THACHOTTUKAV MALAYINKEEZHU P.O.,
THIRUVANANTHAPURAM-695 571.
7. BABY ROSE, AGED 60 YEARS,
D/O.SARASA BAI, PAVAKOTTUKONAM VILAVOORKAL,
THIRUVANANTHAPURAM, NOW RESIDING AT ASOKA HOUSE,
NO.MSRA-2D, THACHOTTUKAVU, MALAYINKEEZHU P.O.,
THIRUVANANTHAPURAM-695 571.

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8. SASIDHARAN PILLAI, AGED 58 YEARS,
S/O.SREEDHARAN PILLAI (THADIKKADU), 'ROHINI' ERUM,
THEKKUMBHAGOM, ANCHAL, PATHANAPURAM,
KOLLAM-691 306.
 9. THE SECRETARY,
PAZHAYAKUNNUMMEL SERVICE CO-OPERATIVE BANK LTD.NO.1517,
KILIMANOOR P.O., THIRUVANANTHAPURAM-695 601.
 10. SUB REGISTRAR,
BALARAMAPURAM SUB REGISTRAR'S OFFICE, BALARAMAPURAM,
THIRUVANANTHAPURAM-695 501.
 11. THE REGISTRAR,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.
 12. SUPERINTENDENT OF POLICE (RURAL),
OFFICE OF THE SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM-695 002.
- R1 TO R5 & R10 TO R12 BY GOVERNMENT PLEADER SRI.RAFEEK V.K.
R6 BY ADVS. SRI.S.V.RAJAN
SRI.R.SUDHISH
SMT.M.MANJU
SRI.R.SANTHOSH (VARKALA)
KUM.ARYA J.NAIR
R8 BY ADVS. SRI.C.RAJENDRAN
SRI.K.R.RANJITH
SMT.R.S.SREEVIDYA
R9 BY ADVS. SRI.K.SIJU
SMT.BINDU GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE DECREE IN AS 600/1998 OF THIS HON'BLE COURT
DT.18-10-2011.**

**EXHIBIT P2 : TRUE COPY OF THE SALE DEED NO.3161/2012 OF MALAYINKEEZHU
SRO DT.26-6-2012.**

**EXHIBIT P3 : TRUE COPY OF THE TAX RECEIPT DT.9-5-13 ISSUED BY
5TH RESPONDENT.**

**EXHIBIT P4 : TRUE COPY OF THE OWNERSHIP CERTIFICATE DT.30-11-13 ISSUED BY
5TH RESPONDENT.**

**EXHIBIT P5 : TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY
5TH RESPONDENT DT.2-1-2013.**

**EXHIBIT P6 : TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DT.10-12-13 ISSUED
BY 4TH RESPONDENT.**

**EXHIBIT P7 : TRUE COPY OF THE COMPLAINT ALONG WITH COVERING LETTER
DT.25-4-13.**

**EXHIBIT P8 : TRUE COPY OF THE COMPLAINT DT.15-1-2014 FILED BY THE
PETITIONER BEFORE 2ND RESPONDENT.**

**EXHIBIT P9: TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DTD.9.7.1998 ISSUED
BY THE 4TH RESPONDENT.**

**EXHIBIT P10: TRUE COPY OF APPLICATION UNDER THE RIGHT TO INFORMATION
ACT FILED BEFORE THE 10TH RESPONDENT.**

**EXHIBIT P11: TRUE COPY OF REPLY OF 10TH RESPONDENT UNDER THE RIGHT TO
INFORMATION ACT.**

**EXHIBIT P12: TRUE COPY OF ENQUIRY REPORT DTD.21.7.2014 OF DEPUTY
INSPECTOR GENERAL OF REGISTRATION (SOUTH ZONE).**

RESPONDENT(S)' EXHIBITS:

**EXT.R9(a): COPY OF SALE DEED NO.131/2012 DTD.9.1.2012 OF THE SRO,
BALARAMAPURAM.**

**EXT.R9(b): COPY OF SALE DEED NO.132/2012 DTD.9.1.2012 OF THE SRO,
BALARAMAPURAM.**

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**EXT.R9(c): COPY OF SETTLEMENT DEED NO.3227/1985 DTD.26.11.1985 OF THE SRO,
MALAYINKEEZHU.**

**EXT.R9(d): COPY OF SETTLEMENT DEED NO.1338/1980 DTD.304.1980 OF THE SRO,
MALAYINKEEZHU.**

**EXT.R9(e): COPY OF ENCUMBRANCE CERTIFICATE NOS.2785/2012 DTD.29.3.2012,
5315/2012 DTD.22.6.2012 AND 7723/2012 DTD.18.9.2012 ISSUED FROM THE
SRO, MALAYINKEEZHU.**

**EXT.R9(f): COPY OF POSSESSION CERTIFICATE NO.1212/2012 DTD.24.3.2012 ISSUED
BY THE VILLAGE OFFICER, VILAVOORKAL.**

**EXT.R9(g): COPY OF LOCATION CERTIFICATE NO.1212/2012 DTD.24.3.2012 ISSUED BY
THE VILLAGE OFFICER, VILAVOORKAL.**

**EXT.R9(h): COPY OF LOCATION SKETCH NO.1212/2012 DTD.24.3.2012 ISSUED BY THE
VILLAGE OFFICER, VILAVOORKAL.**

**EXT.R9(i): COPY OF TAX RECEIPT O.0768373 DTD.1.2.2012 ISSUED FROM THE
VILLAGE OFFICE, VILAVOORKAL AND NO.0768374 DTD.1.2.2012 ISSUED
FROM THE VILLAGE OFFICE, VILAVOORKAL.**

**EXT.R9(j): THE COPY OF THE THANDAPER ACCOUNT NO.1212/2012 DTD.24.3.2012
ISSUED BY THE VILLAGE OFFICER, VILAVOORKAL.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.7176 of 2014

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Dated this the 9th day of March, 2015

JUDGMENT

Alleging inaction on the part of respondents 2 and 12 in initiating action against respondents 4 to 10, the petitioner has come up before this Court.

2. In a suit for specific performance, the petitioner got title over 70 cents of property belonged to respondents 6 and 7. Out of the 70 cents, 55 cents belonged to the 6th respondent and 15 cents belonged to the 7th respondent. The deed was executed by the Sub Court, Trivandrum on deposit of the enhanced balance sale consideration. The petitioner effected mutation over the property and paid tax also. In between the date of decree of this Court in A.S No.600 of 1998 and the date of execution of the aforesaid sale deed by the Sub Court, Trivandrum, respondents 6 and 7 executed two sale deeds in respect of the said properties in the name of the 8th respondent.

3. The documents were registered in Balaramapuram SRO and not in the Malayankeezhu SRO, where the property is situated. Couple of month after effecting mutation by the petitioner over the property, the 8th respondent has given different power of attorney to 10 different persons and through them he mortgaged the said properties before the 9th respondent bank by creating 10 Gehans for ₹10 lakhs each on a single day. The petitioner came to know about the same while he applied for encumbrance certificate. He made complains to the 2nd respondent for taking action against respondents 4 to 10. Another complaint was pending before the 12th respondent also.

4. The petitioner alleges that the act of the respondents 4, 6, to 10 are criminal in nature and are punishable under Sections 81 and 82 of the Registration Act and also under Sections 420, 465, 466 and 468 of IPC. Now, the petitioner is not in a position to avail a loan on the security of the said property. He had spent more than ₹25 lakhs

for executing the decree of this Court and was under acute financial stringency. The inaction from the part of the respondents 2 and 12 is illegal, arbitrary and unjustifiable; it is alleged. It is with this background, the petitioner has approached this Court.

5. In the counter affidavit filed by the 3rd respondent they have admitted that the Deputy Inspector General of Registration (South Zone) was directed to conduct an enquiry on Ext.P8 complaint vide letter dated 5.2.2014. The enquiry report has been received on 22.07.2014 and it is under consideration of the Inspector General of Registration. The main contents of the report is as follows:

“On verification the Gehan Nos.G2416/12 to G 24254/12 filed in Sub Registry Office, Malayinkil are found bereft of title deeds. Vide document number 3161/12, the property has been transferred in favour of Sri. C. K. Ravikumar by the 1st Additional Sub Judge, Thiruvananthapuram.

Moreover it is seen that Adv. S. Sobhanakumar Ro.. No.K/362/90, who prepared the documents 131/12 and 132/12 had not verified in the title deeds, encumbrance

certificates and tax receipts properly. These documents are seen prepared against the judgment of this Court.

Sri. V. Purushothaman Nair, then Sub Registrar, Malayinkil has put his signature on the Gehans (which had been left unsigned by him) without prior departmental permission. Departmental action may be taken against him.

6th and 7th respondents had executed the fraudulent documents 131/12 and 132/12 fraudulently, the Service Co-operative Bank which released a loan amount of Rupees one crore accepting these illegal Gehans and the 8th respondent etc. those connected with the execution of the Gehans have acted against law.”

It is averred that the fraudulent documents 131/12 and 132/12 of Sub Registry Office, Balaramapuram and the fraudulent Gehans of Sub Registry Office, Malayinkil might be cancelled through intervention of this Court and thereby restoration of ownership (title) to the petitioner.

It is further stated that the properties in respect of the sale deeds in the writ petition are situated within the Balaramapuram and the Malayankil Sub District. In compliance with Section 28 of the

Registration Act and on the basis of the memo issued by the 4th respondent to the 10th respondent, the documents were registered as numbers 131/12 and 132/12 in Book 1 in Sub Registry Office, Balaramapuram. The above documents executed satisfied the condition stipulated in Section 30(A) and 32A of the Registration Act. Further, the 10th respondent, in compliance with Section 64 of the Registration Act has forwarded the memos related to the transactions to the 4th respondent. The 4th respondent has also acted upon the provisions of Section 64 of the Registration Act and filed the above memos in Book 1. Therefore, it is stated that the 4th and 10th respondents have not committed any foul play. The 6th and 7th respondents tried to cheat the entire systems, including the judiciary through their fraudulent and crooked move by making the 4th and 10th respondents scapegoats by misusing the provisions contained in the Registration Act and Rules.

It is further stated that respondents 2, 3, 4 and 10 have not

committed any criminal offence under Section 81 and 82 of the Registration Act or Sections 420, 465 and 468 of IPC. The 4th and 10th respondents were unaware of the earlier court decision. Further the above orders have not been intimated/forwarded/circulated as per Section 89 of the Registration Act to the 4th respondent. Since the 10 Gehans satisfied the conditions as per G.O(P) No.127/98/TD dated 28.09.1998 and those in the Circular RR4.20631/2004 dated 18.12.2004 issued by the Inspector General of Registration they have been filed in Book 1 by the 4th respondent. The Gehans bearing the numbers G-2416/12 to G-2425/12 are prepared, compared and attested by the Secretary and presented by the staff on behalf of the Secretary Pazhayakunnumel SCB on 19.10.2012. The copies of the Gehans have also been filed in the office as per G.O(P) 310/2004/Co.op. dated 22.11.2004 and also according to the Circular No.RR4.420631/2004 dated 18.12.2004 of the Inspector General of Registration. Section 28 of the Registration Act, 2008 empowers the

Registering Officer to register documents relating to properties situated in other sub districts. The Sub Registrar was unaware of the crooked intention of respondents 6 and 7 behind the registration of the sale deed 131/12 and 132/12. There is no wilful negligence on the part of the 4th respondent, the Sub Registrar, Malayankil related to the filing of Gehans. The 4th respondent has done the duties vested upon him in good faith.

It is further stated that the 9th respondent is the person who is entrusted to verify all the details regarding the encumbrance, possession and other relevant details of the above property before issuing the loan. It is stated that the respondents 4 and 10 were not aware of the order of the First Additional Sub Court, Thiruvananthapuram and also the order in the Appeal Suit No.600/1998 dated 18.10.2011 by this Court before the execution and registration of documents 131/12 and 132/12. Intimation of any attachment/prohibitory order has not been received from this Court in

this issue by respondents 4 to 10. If the above decree/order had been intimated in time to respondents 4 and 10, it could have been possible to take appropriate action to prevent fraudulent transactions by proper filing as per Section 89 of the Registration Act.

6. In the counter affidavit filed by the 9th respondent, it was contended as follows:

It is stated that the remedy of the petitioner lies elsewhere since they approached this Court seeking such reliefs, including cancellation of registered deeds and the registration of crime against this respondent and others, without taking statutory remedies available. It is further stated that the contentions and claims of the petitioner based on Exts.P1 to P6 are not known to the 9th respondent and it is for the petitioner to prove the same. The 9th respondent is not aware about the pleadings in para 4 of the writ petition regarding the existence of Ext.P1 while the 8th respondent acquired property comprised in R.S No.282/3 and 282/3-3 of Vilavoorkkal village as

per sale deed 131/12 and 132/12 of Balaramapuram Sub Registry. There is no foul play or fraud committed by the answering respondent with regard to the acceptance of property as security comprised in above survey numbers as per Gehans executed on 19.10.2012 at Sub Registry, Malayankeezhu.

It is stated that the 8th respondent along with 9 other applicants by mortgaging the property of the 8th respondent comprised in R.S No.282/3 and 282/3-3 having an extent of 70 cents had availed a loan of Rs.10 lakhs each from the bank. The bank accepted the property in mortgage after satisfying with the title, possession and enjoyment of the property by the 8th respondent, by collecting the or original title deeds, prior deeds, tax receipts, encumbrance certificates, location sketch, possession certificate, location certificate and thandaper account. The loanees had produced non encumbrance certificate issued from the Sub Registry, Malayankeezhu to prove that the property in question is free from

any kind of encumbrance for a period from 1.1.92 to 17.9.12. There is no mention in any of the encumbrance certificate submitted by the 8th respondent and others about Exts.P1 and P2. Hence the bank bonafidely believing the original documents accepted the property as security and sanctioned the loan as per law. No attachment or injunction was communicated to the answering respondent by the petitioner or any other person and the records issued from the Village Officer, Vilavoorkkal, Sub Registry of Malayankeezhu and Balaramapuram did not disclose any liability or encumbrance.

It is further stated that the 8th respondent and other loanees had produced the following documents in original before the 9th respondent for availing loan from the bank:

- a) Sale deed No.131/2012 dated 9.1.2012 of the SRO, Balaramapuram.
- b) Sale deed No.132/2012 dated 9.1.2012 of the SRO, Balaramapuram.
- c) Settlement deed No.3227/1985 dated 26.11.1985 of the SRO, Malayinkeezhu.

- d) Settlement deed No.1338/1980 dated 30.4.1980 of the SRO, Malayankeezhu.
- e) Encumbrance certificate Nos.2785/2012 dated 29.3.2012, 5315/2012 dated 22.6.2012 and 7723/2012 dated 18.9.2012 issued from the SRO, Malayinkeezhu.
- f) Possession certificate No.1212/2012 dated 24.3.2012 issued the Village Officer, Vilavoorkal.
- g) Location Certificate No.1212/2012 dated 24.3.2012 issued by the Village Officer, Vilavoorkal.
- h) Location sketch No.1212/2012 dated 24.3.2012 issued by the Village Officer, Vilavoorkal.
- i) Tax receipt No.0768373 dated 1.2.2012 issued from the Village Office, Vilavoorkal and No.0768374 dated 1.2.2012 issued from the Village Office, Vilavoorkal.
- j) Copy of the Thandapper Account No.1212/2012 dated 24.3.2012 issued by the Village Officer, Vilarvoorkal.

The copies of the above documents were produced and marked as Exts.R9(a) to R9(j) respectively. On receipt of the loan application and the above records in original, the 9th respondent obtained legal opinion to the effect that the 8th respondent got absolute and clear marketable title and possession over the scheduled properties and he

is legally competent to create charges thereon in favour of the bank, including registration of a mortgage by depositing title deed and by registering Gehan. Based on the legal opinion and on the approval of the loan by the committee of the bank, Gehans were registered as per law at the Sub Registry at Malayankeezhu and the loan amounts were disbursed to the loanees.

It is further stated that the 9th respondent had no knowledge or information regarding the alleged violations, if any, committed by the other respondents as pleaded in paragraph 8 of the writ petition. The 9th respondent on production of original documents bonafidely accepted the property on mortgage and sanctioned the loan. In fact, in Ext.P6 document produced by the petitioner, the execution of sale deed nos.131/12 and 132/12 of SRO, Balaramapuram was clearly mentioned and therefore, even at the time of execution of Ext.P2, the petitioner is well aware about the transfer of the property in favour of the 8th respondent.

7. The 8th respondent filed a separate counter affidavit contending as follows:

The 8th respondent is the bonafide purchaser of a p[lot of 54 cetns in Re. Sy. No.282 of Vilavoorkal village as per Sale Deed No.131/2012 executed by the 6th respondent. On 9.1.2012, he had purchased a plot of 54 cents in R. S No.282 of vilavoorkal village as per the sale deed executed and registered in his name by the 6th respondent as Document No.131/2012 at Balaramapuram Sub Registrar's office. True copy of the sale deed is produced as Ext.R8

(a). It is stated that on 9.1.2012, he had purchased a plot of 15 cents and a building comprised in R.S No.282 of Vilvoorkal village as per the sale deed executed and registered in his name by the 7th respondent as Document No.132/2012 at Balaramapuram Sub Registrar's Office. True copy of the sale deed is produced as Ext.R8

(b). Prior to the purchase of the aforesaid property, the 8th respondent had obtained encumbrance certificate from the office of the Sub

Registrar, Malayankeezhu on 15.11.2011, copy of which is produced as Ext.R8(c). As per the entries in Ext.R8(c) encumbrance certificates, the aforesaid properties were totally free from all encumbrances. The period show in Ext.R8(c) covers from 9.1.1992 to 14.11.2011.

According to the 8th respondent, there was no order of injunction or any decree of injunction restraining and prohibiting the respondents 6 and 7 from alienating the aforesaid properties. The petitioner had not informed of the pendency of the proceedings in the original suit or its connected A.S No.600 of 1998. In short, Ext.P1 decree was never communicated to the office of the Sub Registrar, Malayankeezhu as per Section 89(5) of the Registration Act, 1908. section 89(5) of the Registration Act reads as follows:

- (a) any decree or order creating, transferring, limiting or extinguishing any right, title or interest to or in immovable property in favour of or of any person, or
- (b) an order for the attachment of immovable property or for the release of any immovable property from

attachment shall send a copy of such decree or order together with a memorandum describing the property as far as may be practicable in the matter required by Section 21, to the Registering Officer within the local limits of whose jurisdiction the whole or any part of immovable property comprised in such decree or order is situate, and such officer shall file the copy and memorandum in his Book No.12.

According to the 8th respondent, the petitioner had not taken any steps for communicating the decree in A.S No.600 of 1958 at any point of time to the Sub Registrar's office, Malayankeezhu as per Section 89(5) of the Registration Act. Therefore, he cannot, at present, blame the authorities of the Sub registrar for not noting the decree in the encumbrance certificate.

It is relevant to note that Exts.R8(a) & (b) sale deeds were executed on 9.1.2012. Thereafter, i.e. after a period of 5 ½ months, the petitioner has obtained Ext.P2 sale deed on 26.6.2012 through Court. However, the 8th respondent was not given any notice regarding the execution of Ext.P2 sale deed. Moreover, the 8th

respondent was not made a party to the execution proceedings of the decree in A.S No.600/1998. Therefore, the 8th respondent was totally unaware of the proceedings in the appeal suit; it is contended.

The 8th respondent further stated that he had effected mutation in the land revenue records on the basis of Exts.R8(a) and (b) sale deeds. The true copy of the property tax received dated 1.2.2012 issued in his favour from Vilavoorkal village office for the aforesaid property of 54 cents (21.69 ares) is produced as Ext.R8(d). The true copy of the property tax received dated 1.2.2012 issued in his favour from Vilavoorkal village office for the aforesaid property of 15 cents (6.07 ares) is produced as Ext.R8(e). According to him being a bonafide purchaser, he has every right over the properties purchased by him as per Exts.R8(a) & (b) sale deeds.

It is stated that Ext.P2 sale deed executed through court in favour of the petitioner is a conditional sale deed. There is a specific recital in page no.7 of Ext.P2 sale deed that if any loss is occurred on

account of any defects over the decree schedule properties or the sale consideration, its compensation should be recovered from the properties of the judgment debtors, who are the respondents 6 and 7 in the above writ petition. The recital is extracted below:

“ഇപ്രകാരം ഈ ആധാര പ്രകാരം വിലതരുന്ന ഡിക്രിപട്ടിക വസ്തുക്കൾക്കോ വിലയർത്ഥത്തിനോ ആതെങ്കിലും തരത്തിലുള്ള ദോഷമോ നഷ്ടമോ വന്നാൽ ആയത് പട്ടിക വസ്തുക്കളുടെ ഉടമകളായിരുന്ന മേൽ വിവരിച്ച ജെ. വിൽസനിലും ബേബിറോസിലും പട്ടിക സ്വത്തിലും മറ്റു സകല സ്വത്തുക്കളിലും നിന്നും ഈടാക്കി പരിഹാരം നേടിക്കൊള്ളേണ്ടതുമാകുന്നു.”

However, the petitioner has not yet filed any suit for damages till this date. According to the 8th respondent, there is absolutely no fraud in executing the power of attorney of aforesaid by ten persons for availing the loan from the 9th respondent co-operative bank. The executants of those power of attorney documents till the date. Therefore, the grounds mentioned in the para (5) of the writ petition are not tenable.

8. Arguments have been heard.

9. The Sub Court has sent the injunction order in respect of the property in dispute to the 4th respondent's office and the same has been recorded in the registry as evident from Ext.P9 which is the true copy of the encumbrance certificate dated 9.7.98 issued by the 4th respondent. Therefore, it is evident from Ext.P9 that the 4th respondent was aware of the injunction order and, therefore, the sale deed nos.131/12 and 132/12 were registered in the office of the 10th respondent in violation of the order of injunction.

10. It is evident from Exts.P10 and P11 which were the applications submitted to the office of the 10th respondent under the Right to Information Act, that the property in dispute is lying under the 4th respondent and not under the 10th respondent. It is also evident from Exts.P6 and P9 encumbrance certificates that respondents 4 and 10 had issued the same not in accordance with the entries in the register. In this case all the encumbrance certificates in

respect of the property in dispute to the applicants were controlled and decided by respondents 4 and 6 to 10 and the entries are different in each certificate pertaining to same periods. It is also evident that 10 Gehans were registered in the office of the 4th respondent on the same day by using the 9 power of attorneys and the 10 Gehan was registered by the executant itself, i.e. the 8th respondent. Therefore, the documents now placed on board abundantly tend to indicate that some malpractice has been done while encumbrance certificates were issued. It is admitted by the State in their counter affidavit that the Deputy Inspector General of (South Zone) was directed to conduct an enquiry on Ext.P8. Certain portions of the enquiry report are extracted in the counter affidavit.

11. The petitioner has produced another report and it is marked as Ext.P12. It can be seen from Ext.P12 that the 4th respondent has exceeded its jurisdiction several times to meet the illegal goal of respondents 6 to 9. It is admitted by the petitioner that when Ext.P8

complaint is pending before the 2nd respondent.

In the result, the writ petition is disposed of directing the 2nd respondent to dispose of Ext.P8 complaint on the basis of Ext.P12 report. All other issues touching the right of the petitioner over the property in dispute shall be left open to be decided in appropriate proceedings. This exercise shall be completed within a period of three months from the date of receipt of a copy of this judgement.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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