

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.17484 of 2015

N.Pandiyan

... Petitioner

Vs.

- 1 The Secretary
Revenue Department Fort St. George
Chennai-600 009.
 - 2 The Inspector General
of Registration Santhome Chennai-28.
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Second Respondent herein to pass the final order on Petitioner appeal filed against the Order No.8703/AA1/2011 dated 29.03.2012 based on the enquiry conducted by the Second Respondent and pass necessary orders as per the Circular No.67 dated 03.11.2011 (C.No. 52338/C1/2011) within a time frame to be fixed by this Honourable Court.

For Petitioner : Mr.AR.L.Sunderesan
Senior Counsel
for M/s.D.Sathyaraj

For Respondents : Mr.V.Subbiah
Special Government Pleader

O R D E R

By consent the writ petition is taken up for final disposal.

2.The petitioner claims to be the absolute owner of the lands admeasuring an extent of 52 cents comprised in S.No.337/1A at Ayyampalam Village, Namakkal District and the petitioner has approached two private individuals for the purpose of getting the loan and the petitioner was instructed to execute agreement of sale in respect of the above lands with further instruction to execute General Power of Attorney in favour of Tmt.Malarvizhi w/o.Thiru.Selvakumar. The petitioner had also agreed. The said persons had also taken the title deeds from the petitioner by way of security. A registered sale agreement dated 02.06.2008 was also executed which was registered as document no.1754 of 2009 in the

office of the Joint I Sub Registrar, Namakkal. The Power of Attorney in favour of Malarvizhi was also registered as document no.474 of 2009 in the very same office. Subsequently, two cheques for a sum of Rs.5,00,000/- each amounting to Rs.10,00,000/- which were issued in favour of the petitioner and his wife and his legal representatives with an undertaking that when the amount given by them is returned, the sale agreement will be cancelled.

3.It is the claim of the petitioner that though part of the amount has been paid and that they are also willing to pay back the balance amount, it is refused to be received by the said persons and candescently, Malarvizhi by virtue of Power of Attorney, executed sale of deed and in this regard the petitioner lodged a complaint on the file of the District Crime Branch, Namakkal, based on which a case in Crime No.47 of 2011 for the offence under Sections 120(b), 420 and 406 of IPC on 03.11.2011. Selvakumar has filed a counter case to the said complaint which is also filed as a civil suit in O.S.No.5 of 2011 for permanent injunction and the same is pending.

4.In the interregnum, the petitioner approached the District Registrar, Namakkal for cancellation of the sale deed and the said Official vide order dated 29.03.2012 directed the petitioner to approach the civil Court for necessary relief and aggrieved by the same, the petitioner preferred appeal before the second respondent and it was also taken on file. The petitioner also appeared before the said Official on 17.09.2012 along with the documents. The grievance expressed by the petitioner is that the second respondent instead of disposing the appeal, has informed vide letter dated 21.12.2012 stating that a writ petition is pending challenging the vires of the circular bearing no.67 dated 03.11.2011 and consequently is unable to take up the appeal and give the disposal.

5.The petitioner would further state that the validity of the circular has been upheld in a common order dated 17.07.2014 made in W.P.(MD) Nos.5908 of 2012 etc., batch reported in CDJ 2014 MHC 2596 and in the light of the said order, there is no impediment for the second respondent to dispose of the appeal on merits and in accordance with law and prays for appropriate orders.

6.This Court heard the submissions of Mr.AR.L.Sunderesan, learned Senior Counsel, appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents.

7.This Court taking into consideration the limited scope of the prayer sought for by the petitioner and without entering upon the merits of the case projected by the petitioner directs the second respondent to consider and dispose of the petitioner's appeal in accordance with law after putting on notice the rival claimants namely, Thiru.Selvakumar and Tmt.Malarvizhi w/o. Thiru.Selvakumar and pass orders in accordance with law within a period of eight weeks

from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the above said persons.

8.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

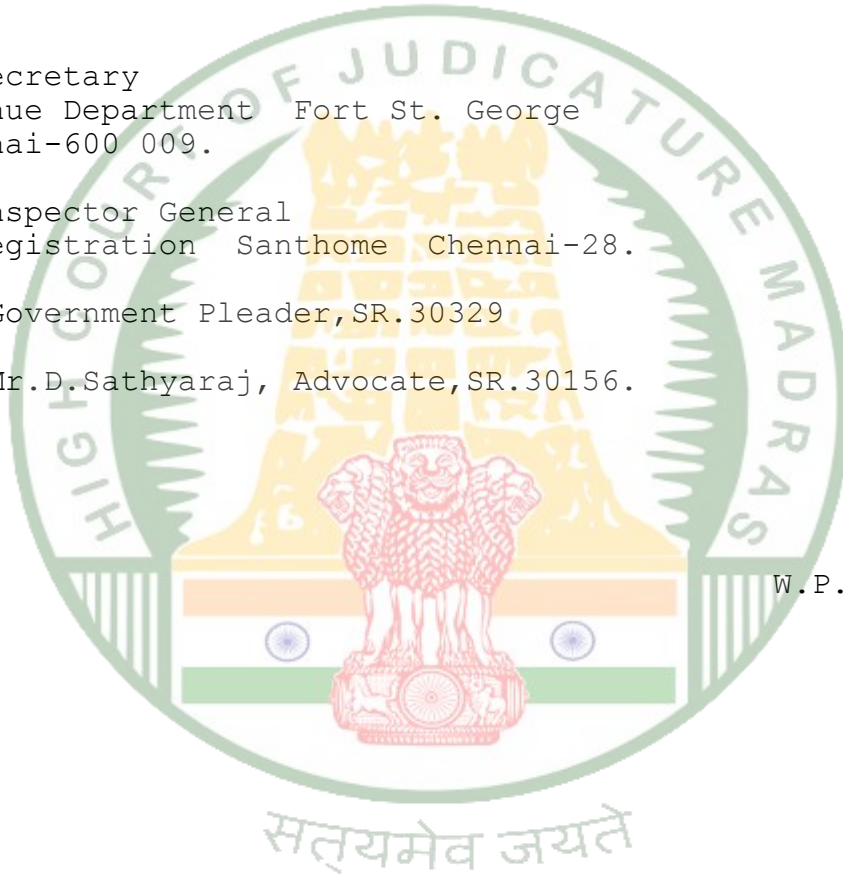
True Copy

Sub Assistant Registrar

To

- 1 The Secretary
Revenue Department Fort St. George
Chennai-600 009.
 - 2 The Inspector General
of Registration Santhome Chennai-28.
- +1 cc to Government Pleader, SR.30329
- +1 cc to Mr.D.Sathyaraj, Advocate, SR.30156.

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krd 25/6



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