

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

Review Application No.48 of 2015
in W.P.No.16107 of 2015
and Contempt Petition Nos.1138 and 2371 of 2015

1. Mrs.R.V.Kamala

.... Petitioner

Vs.

1. S.Ramakrishnan

2. The District Collector,
Kancheepuram District,

3. The Thasildar,
Thiruporur Taluk,
Kancheepuram District,

4. The Sub-Registrar,
Thiruporur,

5. Inspector General of Registration,
Santhome,
Chennai.

... Respondents

Contempt Petition Nos.1138 and 2371 of 2015:

Mrs.R.V.Kamala

... Petitioner

Vs.

1. V.Shanmugam,
The District Collector,
Kancheepuram District,

2. Mr.Omprakash,
The Tahsildhar,
Thiruporur Taluk,
Kancheepuram District.

... Respondents

Prayer: **Review Application No.48 of 2015** is filed under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code against the Order dated 14.7.2014 made in W.P.No.16107 of 2014 on the file of this Court.

Contempt Petition No.1138 of 2015 is filed under Section 11 of Contempt of Courts Act praying to punish the respondents for flouting the order of this Court dated 27.3.2015 passed in M.P.No.2 of 2015 in Review Petition No.48 of 2015 in W.P.No.16107 of 2014.

Contempt Petition No.2371 of 2015 is filed under Section 11 of Contempt of Courts Act praying to punish the respondents for flouting the order of this Court dated 14.07.2014 passed in W.P.No.16107 of 2014 on the file of this Court.

For Petitioner in : Mr.AR.L.Sundaresan,
Review Application Senior Counsel for
No.48 of 2015 Mr.R.Thanjan
and Contempt
Petition Nos.1138
and 2371 of 2015

For Respondent : Ms.V.Renukadevi
 No.1 in Review for Mr.N.A.Nissar Ahmed
 Application No.48
 of 2015

For Respondent Nos: Mr.P.S.Shivashanmughasundaram,
 2 to 5 in Review Special Government Pleader
 Application No.48
 of 2015 and for
 respondents in
 Contempt
 Petitions

COMMON ORDER

(Order of the Court was made by **M.M.SUNDRESH,J.**)

A writ petition in W.P.No.16107 of 2014 was filed by the 1st respondent in Review Application No.48 of 2015 styling it as a public interest litigation seeking a direction to the District Collector, Kancheepuram District and the Tahsildar, Thirupporur Taluk to restore 10.00 acres in S.No.89/1, 155, Paiyanur Village and Post, Thirupporur Taluk, Kancheepuram District, as Anadeenam land and consequently forbear the Sub-Registrar, Thirupporur and the Inspector General of Registration, Santhome, Chennai – 600 004 from registering any document creating encumbrance in the above said land.

2. The writ petition was disposed of at the admission stage by the Order dated 14.7.2015 in the following manner:

"With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2 This writ petition is filed seeking a writ of mandamus directing the respondents 1 and 2 to restore 10.00 acres in S.No.89/1, 155, Paiyanur Village and Post, Thiruporur Taluk, Kancheepuram District, as Anadeenam land and consequently forbear the respondents 3 and 4 from registering any document creating encumbrance in the above said land.

3 On a perusal of the communication dated 19.07.2012, it is evident that the first respondent *viz.*, the Collector, Kancheepuram District, has already initiated proceedings by directing the Tahsildar, Chingleput, to initiate action for removal of names of the private individuals from chitta in respect of S.No.89/1. It is further contended by the learned Special Government Pleader that if the process has not been completed by this time, the respondents be granted eight weeks' time to complete the process of removal of names of the private individuals from chitta in respect of S.No.89/1, 155, Paiyanur Village

and Post, Thiruporur Taluk, Kancheepuram District, after affording an opportunity of hearing to the concerned parties.

4 In view of the aforesaid submission, the learned counsel for the petitioner submits that time schedule may be given for completing the process.

5 Accordingly, the respondents are directed to complete the process of removal of names of private individuals from chitta in respect of S.No.89/1, 155, Paiyanur Village and Post, Thiruporur Taluk, Kancheepuram District, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of with the above direction. No costs. Connected Miscellaneous Petition is closed."

3. Seeking to review the said order passed without adding her as a party respondent and on the ground of fraud, Review Application No.48 of 2015 has been filed. Alleging non-compliance of the order passed in W.P.No.16107 of 2014 and M.P.No.2 of 2015 in Review Application No.48 of 2015, Contempt Petition Nos.2371 and 1138 of 2015 have been filed.

4. For the sake of brevity, the parties are arrayed as in the review application and taken as such for the purpose of disposal of the cases.

5. From the records, it is seen that the 1st respondent/ writ petitioner executed a sale deed on 22.7.1993 in favour of one K.Raghavan, who in turn, executed a general power of attorney in favour of one P.Lakshmi. The said P.Lakshmi executed A sale deed on 22.4.2004 duly registered in favour of the review applicant's husband. By way of A registered settlement deed, the property was given in favour of the review applicant on 8.10.2004.

6. Suppressing these facts, the 1st respondent filed THE writ petition styling it as a probono litigation seeking appropriate directions to the official respondents without impleading the applicant. Taking note of the averments made in the affidavit filed in support of the writ petition, and the submissions made by the learned counsel, the writ petition was disposed of as referred above.

7. In pursuant to the orders in the writ petition, orders have been passed cancelling the patta given earlier in favour of the applicant without

even hearing her.

8. With the above said undisputed facts, the learned Senior counsel appearing for the applicant submitted that a fraud has been committed by the 1st respondent in obtaining orders from this Court. There is a complete suppression of material facts. It is a clear abuse of process of law. The official respondents in turn failed to follow the order passed in the letter and spirit by even affording an opportunity to the applicant. Thus, appropriate orders will have to be passed by recalling the order passed in the writ petition.

9. Learned counsel appearing for the 1st respondent submitted that as the order passed is only direction no interference is required. However, learned Government Pleader appearing for the official respondents submitted that but for the order passed by this Court the patta issued in favour of the applicant would not have been cancelled by changing the classification of the land as Anadheenam land. He also conceded that the applicant has not been heard before passing the same.

10. The facts as narrated above speak for themselves. It is a clear

case of fraud and suppression of facts attributed to the 1st respondent. Being the owner of the property and having alienated the same, he has no right, whatsoever, to file the writ petition to treat it as an Anadheenam land. The factum of his earlier ownership following execution of registered deed have been suppressed deliberately. It is a clear case of abuse of process of law. The applicant has not been heard pursuant to the orders passed by this Court. Strangely, she has not been made made as a party respondent. Therefore, we have no hesitation in recalling the order passed on 14.7.2014.

11. Accordingly, the **review application stands allowed** and the order dated 14.7.2014 passed in W.P.No.16107 of 2014 stands re-called. Consequently, **the writ petition is dismissed**. Since but for the order dated 14.7.2014 passed by this Court, patta stood in favour of the review applicant would not have been cancelled, the official respondents are directed to restore the patta as it stood in favour of the review applicant before the passing of the order dated 14.7.2014. Such an exercise has to be done by the official respondents within a period of six weeks from the date of receipt of a copy of this order. For the conduct and untenable behaviour of the 1st respondent/ writ petitioner, a costs of Rs.25,000/-

(Rupees twenty five thousand only) has been ordered to be paid to the review applicant within a period of four weeks from the date of receipt of a copy of this order. Consequently, the **Contempt Petitions and miscellaneous petitions are closed.**

(SATISH K. AGNIHOTRI,J.) (M.M.SUNDRESH,J.)

18.03.2016

Index:Yes/No

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To

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Kancheepuram District,
2. The Thasildar,
Thiruporur Taluk,
Kancheepuram District,
3. The Sub-Registrar,
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