

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-09-2015

CORAM:

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P. No.27429 of 2011

1. N.Moorthy @ Thalapathi Moorthi

2. M.Manjula

... Petitioners

Versus

1. The Chief Secretary to the Government of Tamil Nadu,
Fort St. George,
Chennai.
2. The Home Secretary,
Fort St. George, Chennai.
3. The Director General of Police,
Mylapore, Chennai.
4. The Director,
Directorate of Vigilance and Anticorruption,
Greenways Road, NCB 21,
P.S.Kumarasamy Raja Salai,
Chennai-28.
5. The Superintendent of Police,
Tiruvallur District,
Tiruvallur.
6. The Inspector General of Registration,
No.100, Pattinapakkam, Near Santhome Church,
Santhome High Road, Raja Annamalaipuram,
Chennai- 600 028.
7. The Sub Registrar,
Manavala Nagar Sub Registrar Office,
Manavala Nagar, Tiruvallur.
8. The Sub Registrar,
Perambakkam Sub Registrar Office,
Parambakkam, Tiruvallur.

9. Vaithiyalingam

10. Lakshmanan

11. Ela varasan

12. Vishnupriya

13. Munusamy

14. Velankanni

... Respondents

Prayer: Writ Petition is filed to issue a writ of Declaration, declaring that the entire proceedings and actions of the respondents 6,7,8, 9, 10,11,12 & 13 on 11.11.2011, in on the basis of the complaint of Valankanni the 14th respondent herein and consequentially the cancellation deeds dated 11.11.2011 in Doc No.754/2011 & Doc No.3847/2011, respectively, on the file of the 7th and 8th respondents in respect of the petitioner's property in S.No.38/7 in Perambakkam Village, Thiruvallur District admeasuring 1.59 acres is illegal, unlawful and contrary to the laws for the time being in force in India and amounts to proceedings Kangaroo Court.

For petitioner : Dr.G.Krishnamurthi

For respondent : Mr.R.Ravichandran (R1 to R8)
Mr.D.Rajkumar (R9 to R13)
Mr.S.Kumaradevan (R14)

ORDER

Heard the learned counsels appearing on behalf of the parties concerned.

2. The main contention of the learned counsel appearing on behalf of the petitioners is that the respondents 9 to 13 had acted in an illegal manner in compelling the petitioners to sign the documents, cancelling the sale deed made in favour of the second petitioner, in respect of the property, in S.No.38/7 in Perambakkam Village, Thiruvallur District, measuring about 1.59 acres. The respondents 9 to 13 had ill-treated the petitioners and their sons at the office of the 8th respondent. The petitioners had been compelled to sign the documents and to register the same in the office of the 7th and the 8th respondents. The respondents 9 to 13 had acted in violation of the Police Standing Orders and the Tamil Nadu District Police Act, 1859. The property was sold by the first petitioner, as the power agent of Ajitha Mary, in favour of his wife, who is the second petitioner herein. The said sale had taken place for a valid consideration. However, the respondents 9 to 13 had compelled the petitioners to execute and register the documents, by use of force.

3. The learned counsel appearing on behalf of the petitioners had submitted that the respondents 7 and 8 have no authority to register the documents, contrary to the dictum laid down, in M/s.Latif Estate Line India Ltd. Vs. Mrs.Hadeeja Ammal and others, CDJ 2011 MHC 747. In such circumstances, the petitioners have preferred the present Writ Petition before this Court, under Article 226 of the Constitution of India.

4. The learned counsels appearing on behalf of the respondents had submitted that Ajitha Mary, the original owner of the property concerned, has not been made a party to the present Writ Petition. It had been further stated that the petitioners had preferred a civil suit before the District Munsif Court, Tiruvallur, relating to the same property. The petitioners had signed the documents, voluntarily. There was no compulsion by the respondents 9 to 13, compelling the petitioners to sign and register the documents. The documents had been signed only based on a compromise entered into amongst the parties concerned, as the sale deed registered by the first petitioner, in favour of the second petitioner, as the power agent of Ajitha Mary, cannot be valid in the eye of law. There was no enforceable title vested in Ajitha Mary at the time of the registration of the said sale deed. The sale of the property in question had taken place, earlier, in favour of the 14th respondent, by way of a sale deed, registered as Document No.73 of 2007 on 5.1.2007, on the file of the office of the Sub Registrar, Perambakkam.

5. It had also been submitted that the property had been purchased from one Ajitha Mary, widow of Robert Gnanadas. From the date of the purchase of property in question, it has been in the possession and enjoyment of the 14th respondent. While so, the first petitioner had colluded with Ajitha Mary and had executed a fraudulent Power of Attorney, in Document No.849/BK4/2007, dated 4.4.2007. Based on the Power of Attorney granted in favour of the first petitioner, he had sold the property to the second petitioner, who is his wife, by way of a sale deed registered as Document No.2196/2007, dated 12.4.2007. Therefore, the 14th respondent had filed a complaint before the 5th respondent, about the fraudulent act of the petitioners, on 15.10.2007. Another complaint had been filed against the petitioners, on 7.4.2008. While so, the petitioners had obtained a patta based on the forged sale deed. Therefore, the 14th respondent had lodged a complaint before the District Collector, Tiruvallur District. However, the petitioners did not attend the enquiry conducted in respect of the issuance of the patta in favour of the second petitioner. Based on the complaint made by the 14th respondent, the 12th respondent had registered a First Information Report, in Crime No.39 of 2011, under the various provisions of the Indian Penal Code. Since the petitioners had apprehended that criminal action would be taken against them, they had entered into a compromise with the 14th respondent and had voluntarily signed and

registered the documents, cancelling the second sale deed made in favour of the second petitioner.

6. It has been further stated that the petitioners had filed a civil suit before the District Munsif Court, Tiruvallur, in O.S.No.33 of 2015, with regard to the same issues which have been raised before this Court in the present Writ Petition. As such, the allegations made by the petitioner, in the present Writ Petition, are false and misleading in nature. Therefore, the present Writ Petition is liable to be dismissed.

7. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, this Court is of the view that certain disputed facts have been raised before this Court while invoking its Writ jurisdiction, under Article 226 of the Constitution of India. It is noted that the matter relates to a civil dispute, in respect of the property bearing S.No.38/7, in Perambakkam Village, Thiruvallur District. Further, it has been stated by the learned counsels appearing on behalf of the respondents that the first petitioner had fraudulently registered a sale deed in favour of his wife, who is the second petitioner herein. The property in question which had belonged to one Ajitha Mary, had been sold to the 14th respondent, by way of a sale deed, bearing Document No.73 of 2007, on 5.1.2007, on the file of the office of the Sub Registrar, Perambakkam. While so, the sale deed registered in favour of the second petitioner, by the first petitioner, as the power agent of Ajitha Mary, is illegal and void. Therefore, the 14th respondent had preferred certain complaints before the authorities concerned for the cancellation of the second sale deed registered in favour of the second petitioner and for the initiation of the criminal action against the petitioners. In such circumstances, the petitioners had signed and registered the documents, bearing Document Nos.754 of 2011 and Document No.3847 of 2011, respectively, on the file of the 7th and the 8th respondents. Further, the petitioners have filed a civil suit before the District Munsif Court, Thiruvallur, in respect of the issues relating to the property in question.

8. It is also noted that Ajitha Mary, who is said to be the original owner of the property in question, had not been added as a party in the present Writ Petition. In such circumstances, this Court is not convinced with the contentions raised by the learned counsel appearing on behalf of the petitioners. Hence, this Court is of the considered view that the allegations made by the petitioners against the respondents have to be proved, by way of documentary and oral evidence. It has also been brought to the notice of this court that the petitioners have preferred a civil suit before the District Munsif Court, Tiruvallur, relating to the issues, which have been raised before this court. In such circumstances, this Court is not inclined to grant the relief prayed for by the petitioners in the

present Writ Petition. Hence, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

csh

To

1. The Chief Secretary to the Government of Tamil Nadu, Fort St. George, Chennai.
2. The Home Secretary, Fort St. George, Chennai.
3. The Director General of Police, Mylapore, Chennai.
4. The Director, Directorate of Vigilance and Anticorruption, Greenways Road, NCB 21, P.S.Kumarasamy Raja Salai, Chennai-28.
5. The Superintendent of Police, Tiruvallur District, Tiruvallur.
6. The Inspector General of Registration, No.100, Pattinapakkam, Near Santhome Church, Santhome High Road, Raja Annamalaipuram, Chennai- 600 028.
7. The Sub Registrar, Manavala Nagar Sub Registrar Office, Manavala Nagar, Tiruvallur.
8. The Sub Registrar, Perambakkam Sub Registrar Office, Parambakkam, Tiruvallur.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.52642
+1cc to Mr.D.Raj Kumar, Advocate, S.R.No.52643
+1cc to the Government Pleader, S.R.No.53070

W.P. No.27429 of 2011

PUR(CO)
CA(07/10/2015)