

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.31848 of 2012 and M.P.Nos.1 and 2 of 2012

P.Shanmugam

...Petitioner

Vs

1. The Inspector General of Registration,
Santhome, Chennai - 600 028
2. The District Registrar,
Tirupur, Tirupur District
3. The Sub Registrar
o/o the Sub Registrar Office,
Avinasi, Tirupur District
4. M.Palanisamy
5. R.P.Shakthi @ M.P.Sathish
6. M/s Danapal Realty Pvt., Ltd.,
rep. By its Managing Director,
89/2 Avinasi Road, Padmavathipuram,
Tirupur, Tirupur District.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent herein to cancel all the fake documents viz., document nos. 1097/2009(Fake power of attorney dated 09.06.2009), 5964/2009 (agreement of sale dated 09.06.2009), 6159/2009 (cancellation of agreement of sale dated 12.06.2009), 6161/2009 (Sale deed dated 12.06.2009), Doc.No.7653/2009 & 11410/2009 (pledging the land before Indian Bank, Tirupur), 10096/2012 (Sale deed dated 10.10.2012) in the light of the circular issued in circular no.67 dated 03.11.2011 (C.No.52338/C1/211) by the 1st respondent herein and as per Section 49 of the Registration Act.

For Petitioner : Mr.D.Balachandran

For Respondents: Mr.R.Vijayakumar for R1 to R3
Additional Government Pleader
Mr.C.S.Saravanan for R5
Mr.P.M.Duraiswamy for R6
No Appearance for R4

O R D E R

This Writ Petition has been filed for a direction upon the 2nd respondent to cancel all the document nos, viz., 1097/2009 (Fake power of attorney dated 09.06.2009), 5694/2009 (agreement of sale dated 09.06.2009), 6159/2009 (cancellation of agreement of sale dated 12.06.2009), 6161/2009 (Sale deed dated 12.06.2009), Doc.No.7653/2009 & 11410 (pledging the land before Indian Bank, Tirupur), 10096/2012 (Sale deed dated 10.10.2012), which according to the petitioner are fake documents by invoking power conferred on the 2nd respondent by Circular No.67 dated 03.11.2011.

2.According to the petitioner, complaint given by him to the 2nd respondent, District Registrar was taken into consideration and an enquiry was conducted. Accordingly, the private respondents, namely respondents 4 to 6 were called upon and they had participated in the enquiry and statement from the document writer was recorded and ultimately the 2nd respondent held that documents that has been issued are fake documents and directed Sub-Registrar to take appropriate action and cancel the same. However, subsequently, no further action was taken, therefore, the petitioner is before this Court.

3.The learned Additional Public Prosecutor submitted that during the interregnum Circular No. 67 dated 03.11.2011 was challenged in a batch of cases before this Court and this Court granted stay. Therefore, there is a impediment on the respondent to proceed further.

4.After hearing the learned counsel for the parties and perusing the Proceedings, it is seen that though the 2nd respondent has recorded that respondents 4 to 6 participated in the enquiry, there is no discussion in the order dated 29.04.2011 with regard to the objections and issues raised by the respondents 4 to 6. The proceedings dated 29.04.2011 has been passed on the statement recorded by the document writer. The power conferred on the 2nd respondent by virtue of circular no.67 is to enquire into complaints relating to fraudulent registrations through impersonation or production of false documents and evidences etc.,

Circular also provides a procedure to be followed. In any event the power conferred on the 2nd respondent, being a quasi judicial power, the same to be exercised under due care and caution and after full compliance of natural justice, enquiry should be meaningful and reasons should be recorded by the 2nd respondent.

5. Prima facie, it appears that the proceedings dated 29.04.2011 does not full fill the requirements required to be fulfilled while considering the complaint given under Circular No. 67 dated 03.11.2011. Further more, as of now, the impediment faced by the 2nd respondent is no longer valid, as the Circular No.67 dated 03.11.2011 has been up held by this Court in the case of Ramasamy Vs.State of Tamilnadu 2014 reported in 2014 (4) CTC 627.

6. In the light of the above, there shall be a direction to the petitioner to approach the 2nd respondent by way of fresh representation enclosing a copy of this order and raise all contentions both on facts and law. On receipt of such representation from the petitioner, the 2nd respondent shall issue notice to the petitioner as well as the respondents 4 to 6, afford them an opportunity to file counter and after affording opportunity of personal hearing shall pass a reasoned order on merits and in accordance with law. However, it is made clear that this Court has not gone into the merits of the contentions raised by the petitioner and the same is left open to the 2nd respondent to consider the same in accordance with law.

With the above observation, this Writ Petition is disposed of. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

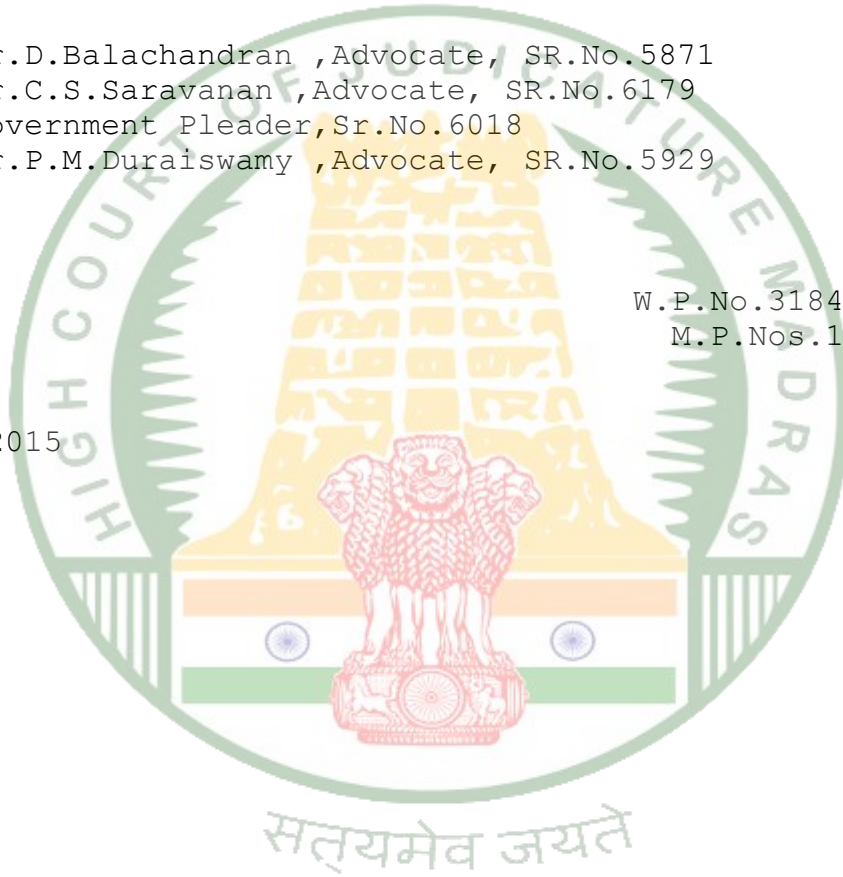
To

1. The Inspector General of Registration,
Santhome, Chennai - 600 028
2. The District Registrar,
Tirupur, Tirupur District
3. The Sub Registrar
o/o the Sub Registrar Office,
Avinasi, Tirupur District

- 1 cc to Mr.D.Balachandran ,Advocate, SR.No.5871
1 cc to Mr.C.S.Saravanan ,Advocate, SR.No.6179
1 cc to Government Pleader,Sr.No.6018
1 cc to Mr.P.M.Duraiswamy ,Advocate, SR.No.5929

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M.P.Nos.1 and 2 of 2012

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