

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3940 of 2015

&

M.P.No.1 of 2015

1.K.Velusamy
2.M.balasubramanian Petitioners

vs.

1)The District Registrar
District Registration Department
Thirupur District, Thiruppur

2)V.T.Subramaniyan Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pending on the file of 1st respondent in Circular in Na.Ka.No.5891/Aa1/2014 dated 15.12.2014 issued by the 1st respondent based on the complaint dated 05.11.2014 filed by the 2nd respondent and quash the same and direct the 1st respondent not to deal with the schedule of the property.

For Petitioner : M/s.S.Ramesh

For Respondents : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader

O R D E R

The order impugned in this writ petition is a notice issued by the District Registrar, Tiruppur dated 15.12.2014 calling upon the petitioner to appear for an enquiry.

2. The petitioner would state that the first respondent exceeded his jurisdiction and the complaint dated 05.11.2014 given by the second respondent against the petitioner is a false complaint and already civil suits are pending before the Civil Court and the first respondent cannot examine the title of the property and Sections 82 and 83 of the Registration Act, 1908 can be invoked only when the false statements, impersonation and

abetment are made in registering the documents before the Registrar. Further it is stated that Circular No.67 dated 03.11.2011 may not be applicable since it deals only with fraudulent registrations. The learned counsel appearing for the petitioner relied on 2011 (1) CWC 283 in support of his contention that Rule 55 does not provide enquiry by the Registering officer with regard to the right and ownership of the seller. Further reliance was made on the decision of this Court in 2010 (2) CWC 748 wherein this Court has held that Registrar cannot enquire title of the property.

3. In my considered view, these issues can very well be raised before the first respondent and the impugned proceeding is only a show-cause notice. The respondent should bear in mind the decisions of this Court that the Registering Officer cannot enquire into the title of the property and such enquiry is beyond the scope of Rule 55.

4. With these observations, the writ petition is disposed of directing the petitioners to submit their objections before the first respondent raising all contentions including the contention raised in the writ petition which shall be considered in accordance with law. In the event that the suits are pending with regard to the title to the property, it goes without saying that the Registering Officer shall have no jurisdiction to interdict the proceedings and shall allow the parties to adjudicate their right before the Civil Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gpa

To

The District Registrar
District Registration Department
Thirupur District, Thiruppur

1 cc to Government Pleader, Sr. 8763
1 cc to Mr.S. Ramesh, Advocate, sr. 8567

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MSM (CO)
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