

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.8028 of 2015

S. Sakthivel

.. Petitioner

Versus

1.The Inspector General of Registration,
Mylapore,
Chennai - 600 004.

2. Mr. K. John Bosco Martin,
Sub Registrar,
O/o. Sub Registrar,
Punjai Puliyampati - 638 459
Sathyamangalam Taluk,
Erode District.
(presently officiating as Sub-Registrar
Chits and Societies
O/o. The District Registrar
Erode District)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus or any other appropriate writ, order or direction, calling for the entire records connected with the order in proceedings No.37616/U1/14, dated:20.11.2014 of the 1st respondent to cancel the document No.4102 of 2013 registered by the 2nd respondent and also initiate appropriate departmental action against the 2nd respondent for dereliction of duty within a time frame fixed by this Hon'ble court.

For Petitioner : Mr.Sathia Chandran

For Respondents 1 : Mr. V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

Heard Mr. Sathia Chandran, learned counsel for the petitioner; Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepting notice for the 1st respondent and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner has challenged the order passed by the 1st respondent dated 20.11.2014 declining to exercise his jurisdiction and consider the petitioner's representation after taking action against the registration of a document, which according to the petitioner, is a fraudulent transaction.

3.Since the writ petition is disposed of at the admission stage, the merits of the allegations made by the petitioner as against the 2nd respondent or in respect of the document in question, are not gone into and the notice to the 2nd respondent is dispensed with.

4.Furthermore, the impugned order has been passed without notice to the petitioner and without hearing the 2nd respondent and the copy of the impugned order has not been furnished to the 2nd respondent. In fact, the petitioner's representation dated 08.08.2014 has been rejected at the threshold without notice to the petitioner or to the aggrieved party, viz., the 2nd respondent herein. Therefore, this Court is inclined to take up the writ petition itself for disposal at the admission stage, with the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the 1st respondent.

5.In the penultimate paragraph of the impugned order dated 20.11.2014, the only reason assigned by the 1st respondent to refuse to consider the representation is that this Court has granted an order of interim stay in respect of the Circular No.67 issued by the 1st respondent. It is to be noted that the validity of the said Circular has been upheld by the Madurai Bench of this Court in a batch of cases in WP.[MD] Nos.5908/2012 etc batch dated 17.07.2014 [Ramasamy and others Vs. State of Tamil Nadu and others]. Therefore, the legal impediment which has been pointed out in the impugned order does not survive any longer since the validity of the Circular has been upheld. Therefore, to that extent, viz., the last paragraph of the impugned order which states that the petitioner's representation cannot be considered in the light of the order of stay granted by this Court, alone is set aside and the matter is remanded back to the 1st respondent for fresh consideration.

6.Learned Special Government Pleader appearing for the 1st respondent would submit that though writ appeals have been preferred as against the said order in Ramasamy's case [cited supra], no interim order has been granted by the Honourable Division Bench.

7.In the light of the above, the 1st respondent is hereby directed to take into consideration the factual position as pleaded by the petitioner, issue notice to the petitioner as well as to the 2nd respondent and proceed in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

8.The writ petition is partly allowed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Mylapore, Chennai - 600 004.

2. Mr. K. John Bosco Martin,
Sub Registrar,
O/o. Sub Registrar,
Punjai Puliyampati - 638 459
Sathyamangalam Taluk,
Erode District.
(presently officiating as Sub-Registrar
Chits and Societies
O/o. The District Registrar
Erode District) .

+1 cc to Government Pleader, SR.16336

+1 cc to Mr.S.Sathia Chandran, Advocate, SR.16471.

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