



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition (MD) No.12982 of 2015
and MP(md) No.1 of 2015

M.Erulliah

... Petitioner

Vs

1.The District Registrar (Admn)
Office of District Registrar,
Dindigul.2.The Sub Registrar,
Batlagundu, Dindigul District.

3.Mokkasamy

...

Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No.5242/A1/2014, dated 10.11.2014 passed by the first respondent and quash the same and further direct the first respondent to follow circular 67 and guidelines issued by the Inspector General of Registration Department and cancel the fraudulent settlement deed executed by the third respondent dated 28.03.2014.

For Petitioner

: Mr.S.Vellaichamy

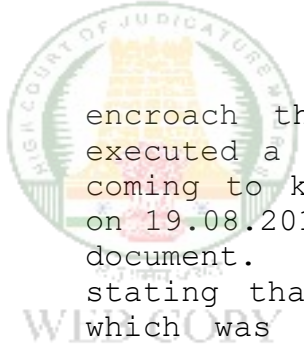
For Respondents 1&2

: Mr.N.S.Karthikeyan
Government Advocate.

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 10.11.2014 wrongly stating that he has no jurisdiction to cancel the fraudulent document which was executed by the third respondent.

2.It is stated in the affidavit filed in support of this writ petition that out of 7 acres 64 cents 43 cents in S.R.No.900/1A were allotted to the petitioner's father as the ancestral property and after his death, oral partition has been made between his brothers and himself. It is further stated that the third respondent is residing on the eastern side of his property and attempting to interfere with his property on the main intention to grab the same. Hence, a complaint was given to the Batlagundu Police Station against the third respondent and the same was closed based on the undertaking given by him stating that he will not



encroach the property. In the meanwhile, the third respondent had executed a forged document on 28.03.2014 in the name of his wife and on coming to know the said fact, the petitioner submitted a representation on 19.08.2014 to the first respondent requesting him to cancel the forged document. However, the first respondent passed the impugned order stating that he has no jurisdiction to cancel the fraudulent document which was executed by the third respondent. Challenging the said impugned order, the present writ petition has been filed.

3.Learned counsel for the petitioner submitted that this Court has upheld circular No.67 holding that circular issued by the Inspector General of Registration conferring powers to District Registrars to annul registered documents on the ground of fraud and impersonation and further held that circular contains effective procedural guidelines for registration authorities in curbing menace of fraudulent transaction.

4.Heard the learned counsel for the petitioner as well as the learned Government Advocate who took notice for the respondents.

5.Admittedly, in cases where there is allegation of impersonation, fraud or illegal registration, a Circular has been issued by the Inspector General of Registration vide Circular No.67 dated 03.11.2011. By virtue of the said circular, the District Registrar of the region is empowered to enquire into the complaints and proceed to consider the matter. The said circular was challenged in a batch of Writ Petitions before this Court contending that there is no power vested with the Inspector General of Registration for issuance of the said circular. The challenge to the said circular was rejected by this Court in the case of *Ramasamy Vs. State of Tamil Nadu* reported in 2014(4) CTC 627. The power has been upheld by virtue of this circular, until a suitable law is enacted with regard to the scope of jurisdiction for enquiring into such a fraudulent transaction.

6.In the light of the above, the impugned order passed by the District Registrar, Dindigul, the first respondent herein is set aside. The matter is remitted back to the District Registrar, the first respondent herein who shall issue notice to the petitioner as well as the third respondent and any other persons who are likely to be aggrieved and thereafter conduct enquiry after hearing the parties in person, shall pass a reasoned order on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

7.The writ petition is allowed on the above terms. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar(T&P)

/TRUE COPY/

Sub Assistant Registrar



To

1. The District Registrar (Admn)
Office of District Registrar,
Dindigul.

2. The Sub Registrar,
Batlagundu, Dindigul District.

+1CC TO MR.S.VELLAICHAMY, ADVOCATE, SR NO:42793

sms

jam/10.8.2015/3p-4c

Writ Petition (MD) No.12982 of 2015
28.07.2015