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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) No.15170 of 2015

and

M.P. (MD) No.1 of 2015

S.P.MURTHY

.. Petitioner

Vs.

1. THE DISTRICT COLLECTOR,
TIRUCHIRAPPALLI DISTRICT.
2. THE REVENUE DIVISIONAL OFFICER,
LALGUDI POST, TRICHY DISTRICT.
3. THE TAHSILDAR,
MANACHANALLUR POST,
TRICHY DISTRICT - 621 005.
4. THE DEPUTY TAHSILDAR,
MANACHANALLUR POST,
TRICHY DISTRICT - 621 005.
5. THE JOINT SUB REGISTRAR, NO.1,
CANTONMENT, TRICHIRAPPALLI - 620 001.
6. DILSHAD
7. NISHAD AHAMED
8. HUMERA
9. ROSHNARA
10. SALIM
11. K.RAMACHANDRAN

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 5th respondent to take immediate action and conduct enquiry on the petitioner's representation dated 13.05.2015 preferred under section 82 of The Registration Act 1908 and consequently direct the 5th respondent to cancel the registration of sale deed dated 28.06.2007 in Document No. 3512/2007 on the file of the 4th respondent and in the interregnum pending enquiry under section 82 direct the fifth respondent not to permit any further encumbrances in



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respect of the landed property situate at old survey No.148 i.e. in respect of now new survey No.372/2A ad measuring an extent of 2 acre and 61 cents at Madakudi Village, Lalgudi Taluk, Trichy District by 11th respondent or any other person purporting to act under him.

For Petitioner : Mrs.J.Maria Roseline
For R1 to R5 : Mr.M.Rajarajan
Government Advocate

O R D E R

This writ petition has been filed for a Writ of Mandamus directing the 5th respondent to take immediate action and conduct enquiry on the petitioner's representation, dated 13.05.2015 preferred under section 82 of The Registration Act 1908 and consequently direct the 5th respondent to cancel the registration of sale deed dated 28.06.2007 in Document No. 3512/2007 on the file of the 4th respondent and in the interregnum pending enquiry under section 82 direct the fifth respondent not to permit any further encumbrances in respect of the landed property situate at old survey No.148 i.e. in respect of now new survey No.372/2A ad measuring an extent of 2 acre and 61 cents at Madakudi Village, Lalgudi Taluk, Trichy District by 11th respondent or any other person purporting to act under him.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 5.

3.It is the case of the petitioner that the lands admeasuring to an extent of 25 acres and 20 cents situated at old survey No.148, Madakudi Village, Lalgudi Taluk, Trichy District were originally inam lands and thereafter, under the Minor Inam Abolition Act, 30/1963, the said lands in old Survey No.148 was sub divided into various survey numbers and patta was also granted to various persons by the settlement officer under the said Act. The patta was also granted in the name of the petitioner's father i.e. palaniyandipillai by the settlement officer in old Survey No.148 i.e. in respect of now new survey No.372/2 admeasuring to an extent of 3.42.0 hectares. Subsequently, the land was sub divided as 372/2A, 372/2B and 372/2C. The land in survey No.372/2A admeasuring to an extent of 2.61.0 hectares was registered in the name of the petitioner. Similarly the settlement officer under the Act granted patta to various persons in survey No.148 by sub dividing the said survey No.148 in to various divisions and assigning new survey numbers.

4.It is the further case of the petitioner that one late Shajahan, S/o.Jahangir Basha Sahib, who is the husband of the 6th respondent and father of the respondents 7 to 9 during his lifetime had obtained a fraudulent certificate to the effect that he is the legal heir of Janab (late) Edir Farkansahib @ Shadikan Sahib. The said fraudulent certificate was issued by one Tahsildar by name Vijaya Banumathi. The legal heir certificate issued by the Tahsildar is fraudulent as the same was given without obtaining death



certificate and enquiry report of the Village Administrative Officer and Revenue Inspector. The certificate also does not mention the nature of relationship between Shajahan and Janab (Late) Edir Farkansahib @ Shadikan Sahib. By using the said fraudulent certificate, the said Shajahan had created many encumbrances in respect of the lands in old survey No.148. The registration department has also registered the documents mechanically. After he came to know the fact, the petitioner preferred a complaint dated 15.11.2010 before the first respondent. The said complaint was forwarded to the third respondent for enquiry and as per the directions of the third respondent, the fourth respondent conducted enquiry on the petitioner's complaint and the third respondent has given a report to the effect that there is no file in the office of the third respondent pertaining to the legal heir certificate issued to late Shajahan and that the said certificate is not given in regular form and there is no mention about the proceedings number in the said certificate. The report of the third respondent clearly supports the case of the petitioner.

5.It is also the case of the petitioner that the said Shajahan by impersonation and by claiming himself to be the legal heir of Edir Farkansahib had executed a registered General Power of Attorney dated 07.06.2007 in favour of 10th respondent vide document No.1653/2007. The 10th respondent in turn had executed a registered sale deed dated 28.06.2007 vide document No.3512/2007 in favour of one K.Ramachandran, S/o.late Krishnan. The 5th respondent without insisting for revenue documents and without prima facie satisfying itself about the title of Shajahan had allowed registration of sale deed in favour of 11th respondent. The 11th respondent in turn had executed registered power deed in favour of one G.Sadasiva Gupta vide document No.392/2007. On the basis of the above said fraudulent and illegal documents, the said Sadasiva Gupta in turn had entered into an agreement of sale with one R.Tavaseelan, S/o.Rengasamy vide registered document dated 20.02.2009. Hence, the petitioner has given a complaint before the Land Grabbing Cell and the same was registered in Crime No.16 of 2011.

6.It is the further case of the petitioner that subsequent to the registration of First Information Report, the above said Shajahan had cancelled the registration of power deed executed in favour of 10th respondent and the 11th respondent had cancelled the power deed executed in favour of Sadasiva Gupta. Thereafter, the registered agreement of sale executed in between Sadasiva Gupta and R.Tavaseelan was also cancelled. In order to escape from penal consequences, the said Shajahan had filed a civil suit in O.S.No.35/2011 on the file of the District Munsif Court, Lalgudi and as a consequence, the sale deed executed by him in favour of the 10th respondent was not cancelled. Subsequently, the said suit in O.S.No.35/2011 was also dismissed on 29.01.2015 on the ground that the proper legal heir of Edir Farkansahib Trust was not impleaded. The said Shajahan expired on 31.03.2013 leaving behind the respondents 6 to 9 as his legal heirs. Subsequent to the dismissal of the above said suit in O.S.No.35/2011, the petitioner had preferred complaint to the fifth respondent under Section 82 of the Registration Act, 1908 seeking for



cancellation of registered sale deed, dated 28.06.2007 executed by 10th respondent in favour of 11th respondent on the ground of securing registration of petitioner's lands by making impersonation, by fabricating documents and by playing fraud. Even though, the petitioner's representation dated 13.05.2015 was received by the 5th respondent as early as on 15.05.2015, the 5th respondent has not taken any action. Hence, the petitioner has come forward with this writ petition for the relief stated supra.

7.Considering the submissions made in the affidavit, without going into the merits of the matter, this Court directs the fifth respondent to conduct an enquiry by affording opportunity to the respondents 6 to 11 and also other necessary parties, if any, and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the allegation made in the complaint.

8.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. THE DISTRICT COLLECTOR, TIRUCHIRAPPALLI DISTRICT.
2. THE SUB COLLECTOR, LALGUDI, TIRUCHIRAPPALLI DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER, LALGUDI POST, TRICHY DISTRICT.
4. THE TAHSILDAR, MANACHANALLUR POST, TRICHY DISTRICT - 621 005.
5. THE DEPUTY TAHSILDAR, MANACHANALLUR POST, TRICHY DISTRICT-621 005.
6. THE JOINT SUB REGISTRAR, NO.1,
CANTONMENT, TRICHIRAPPALLI - 620 001.

+1cc to M/s.J.Maria Roseline, Advocate Sr.No.48693

+1cc to The Special Government Pleader SR.No.49174

akm/02.09.2015 /4p-9c/

W.P. (MD) No.15170 of 2015
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