

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12389 of 2016

1. R.P.Mohan
2. Mrs.Gunawathe Moka
3. M.Anand Raj

... Petitioners

Vs.

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Chennai 600 028.
2. The District Registrar,
Office of the District Registrar,
Krishnagiri District.
Krishnagiri.
3. The Joint Sub Registrar -I,
Krishnagiri,
Krishnagiri District.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent authorities to take action for nullification of all fake documents created by third parties with regard to the properties of the petitioners in Survey Nos.1/2, 2/2, 3/1A2, 3/1A1B, 15/1A1, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A in Akkalapuram Kothapettah village in Krishnagiri Taluk and District and delete such entries from the encumbrance register by conducting due enquiry as contemplated under the Circular No.67 dated 3.11.2011 issued by the 1st respondent within a time to be fixed by this Court.

For Petitioner : Mr.S. Thankasivan

For Respondents : Mr. K.Thangapandi
Govt. Advocate

ORDER

The petitioner has come forward with this Writ Petition seeking for a mandamus upon the respondents to take action for nullification of all fake documents created by third parties with regard to the properties of the petitioners in Survey

Nos.1/2, 2/2, 3/1A2, 3/1A1B, 15/1A1, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A in Akkalapuram Kothapettah village in Krishnagiri Taluk and District and delete such entries from the encumbrance register by conducting due enquiry as contemplated under the Circular No.67 dated 3.11.2011 issued by the 1st respondent within a time to be fixed by this Court.

2. According to the petitioner, the petitioner and his wife and son, who are the 2nd and 3rd petitioners herein are the owners of patta lands comprised in S.Nos.1/2, 2/2, 3/1A1B, 3/1A2, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A measuring Ac.14-40 cents in Akkalapuram Kothapettah Village in Krishnagiri Taluk and District. Apart from that, the 2nd petitioner is the absolute owner of Ac.7-43 cents comprised in S.No.16/7A and the 3rd petitioner is owner of 80 cents comprised in S.No.16/8A in Kothapettah Village, Krishnagiri Taluk and District. The patta and revenue records and registered sale deeds for the above lands are standing in petitioners' name. The petitioners have purchased the above properties during the year 1983 to 1996 and mutation of revenue records has also been effected in their names. After taking physical possession of the said lands, the petitioners are running an industrial unit in a larger portion of the said lands by obtaining licence from the Industries Department since 1985. During the year 2005, as the Government of Tamilnadu has initiated land acquisition proceedings by issuing notice under section 4(1) of Land Acquisition Act for the above lands, the petitioners filed writ petitions and obtained stay of all acquisition proceedings in W.P.Nos.22621 to 22623 of 2005, which fact discloses petitioners' possession, enjoyment and title over the said lands.

3. It is the case of the petitioners that certain fraudulent persons have created fake agreements for sale, Deed of Power of Attorney etc., in respect of the very same lands owned by petitioners and the same was mentioned in the encumbrance certificates pertaining to their properties. The petitioners, on coming to know about the fake documents, approached the respondent authorities by submitting a detailed representation on 28.11.2013 for cancelling the same and on receipt of such representation, the 1st respondent viz., the Inspector General of Registration, Office of the Inspector General of Registration, Chennai-28, directed the 2nd respondent viz., the District Registrar, Office of the District Registrar, Krishnagiri District, Krishnagiri to conduct an enquiry and subsequently, the 2nd respondent issued a notice of enquiry dated 14.2.2014 to petitioners and the petitioners attended the enquiry on the appointed day, but on the date of conducting enquiry, the persons who have executed fake documents and one Ilangeswaran, in whose name, the Power of Attorney was executed were not present. Further the petitioner came to know that in view of the false and fake nature of their documents, a case was

registered by the Kerala police against the said Ilangeswaran and others. Subsequently, the petitioner came to know that the said Ilangeswaran was arrested and the Sub Registrar, Kaveripattinam who had registered one of those fake documents was also suspended and disciplinary proceedings has been initiated. Hence no enquiry was conducted on 14.2.2014 and the petitioners have been approaching the respondent authorities on various occasions for cancellation of the said fake documents.

4. It is the grievance of the petitioners that though on several occasions, the petitioners approached respondent authorities for cancellation of fake documents, till date, they have not taken any action and the same has resulted in grave injustice and prejudice to the petitioners. Further the respondents are bound to cancel and delete all fake entries created by various third parties in view of the circular No.67 dated 3.11.2011 issued by the 1st respondent and the respondents have failed to act upon the same. Hence, the petitioners have filed the present Writ Petition.

5. Learned counsel for the petitioners submitted that the respondent authorities are duty bound to delete the fake and fraudulent documents created by third parties in view of the circular No.67, dated 3.11.2011 issued by the 1st respondent and as such the inaction of the respondent authorities in registering documents contrary to Circular No.67 dated 3.11.2011 is illegal. He would further submit that the inaction on the part of the respondent authorities in not acting upon the representation of the petitioners dated 28.11.2013 would cause further injustice to the petitioners. Thus he prayed for a direction.

6. I have considered the submissions made on either side and perused the materials available on record.

7. It is seen that based on the representation given by the petitioners dated 28.11.2013, an enquiry was pending before the 2nd respondent. Since enquiry is pending, no positive direction could be given. However, the 2nd respondent may be directed to complete the enquiry within a specified time.

8. Hence, this Court, without going into the merits of the case, directs the 2nd respondent to complete the enquiry in respect of cancellation of false documents in respect of Survey Nos.1/2, 2/2, 3/1A2, 3/1A1B, 15/1A1, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A in Akkalapuram Kothapettah Village in Krishnagiri, Taluk and District after affording an opportunity of personal hearing to the petitioners as well as to all the necessary parties, and pass appropriate orders on merits and in

accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

9.It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioners and it is for the 2nd respondent to pass orders purely on merits on the representation of the petitioners.

10.With the above direction, this Writ petition is disposed of. No costs.

msr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road, Chennai 600 028.
2. The District Registrar,
Office of the District Registrar,
Krishnagiri District.
Krishnagiri.
3. The Joint Sub Registrar -I,
Krishnagiri,
Krishnagiri District.

+ 1 cc to The Govt.Pleader, Sr 20911

+ 1 cc to Mr.S.Thankasivan, Advocate Sr 20741

KR/25/4/16

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