

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12531 of 2016

M.Mary Muthammal

.. Petitioner

Vs.

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai-600 028.
2. The District Registrar,
No.9, Jennis Road,
Saidapet, Chennai.
3. The Sub-Registrar,
Velachery, Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to dispose of the Revision Petition of the petitioner, dated 24.10.2015 within the time frame as may be fixed by the Court, consequently direct respondent No.3 not to register any kind of deed or instrument in respect of S.No.56/8, 2nd Main Road, Sivaprakasam Road, Puzhuthivakkam, Chennai, till the disposal of the revision petition, dated 24.10.2015.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Mr.S.Navaneethan, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to dispose of the Revision Petition of the petitioner, dated 24.10.2015 within the time frame as may be fixed by the Court and consequently direct the third respondent not to register any kind of deed or instrument in respect of S.No.56/8, 2nd Main Road, Sivaprakasam Road, Puzhuthivakkam, Chennai, till the disposal of the revision petition, dated 24.10.2015.

2. It is averred by the petitioner in the affidavit filed in support of the Writ Petition that a vacant site of an extent about 2400 Sq.Ft. in Plot No.132, comprised in Survey No.56/8, 2nd Main Road, Sivaprakash Nagar, Puzhuthivakkam, Chennai, belonged to one M.N.Krishnan, son of Neelakandaiyer. In the year 1991, the petitioner purchased the said vacant site from the said M.N.Krishnan, vide document No.2812 of 1991, dated 23.09.1991 on the file of the Sub-Registrar, Alandur. The sale deed came to be misplaced by the petitioner as she frequently travelled to Coimbatore on account of the pregnancy of her daughter and the petitioner could not trace the document as her husband was staying in Kerala on account of his avocation.

3. On 05.12.2014, when the petitioner tried to lodge a complaint with the nearby Police Station, she was directed to get the Encumbrance Certificate from the concerned Sub-Registrar's office so as to take further course of action. The petitioner applied through her brother for obtaining the Encumbrance Certificate for her property, which is now within the jurisdiction of the third respondent. On going through the Encumbrance Certificate, the petitioner found an entry in it as if she had given power to sell subject property to one M.K.Kubendran, vide document No.7734 of 2014, dated 17.11.2014. She never executed any document in favour of the said M.K.Kubendran or to any one else. On 15.12.2014, the petitioner reported the issue to the third respondent through a complaint for taking further action. The third respondent took action on the said complaint and called for the documents submitted along with the said Power of Attorney Deed, dated 17.11.2014. It seems that the said M.K.Kubendran, along with some persons, opened a savings bank account on 15.11.2014 by impersonating the petitioner's name and on support of the same, he has executed the said Power of Attorney Deed, dated 17.11.2014. Even the photograph in the said document is not resembling with the petitioner. The signature found in the said Power Deed is also not of her.

4. It is further stated by the petitioner that she gave a representation to the third respondent to cancel the said Power Deed. On 02.02.2015, the petitioner received a communication from the third respondent, vide letter No.10/2015-1, dated 22.01.2015 requiring her to come to Chennai to meet him regarding her complaint. On 06.02.2015, when she went to the office of the third respondent, she was informed by the third respondent that the said M.K.Kubendran, on the basis of the disputed Power Deed, dated 17.11.2014, executed a sale deed in favour of one Thatchinamoorthy, who is his own brother, on 10.12.2014 for a sum of Rs.84,00,000/- and it was registered as Document No.8447/14 with the third respondent. Since the third respondent has not retained the forged document which was registered in Document No.8447, dated 10.12.2014 based on the

petitioner's complaint, dated 15.12.2014, she sent a representation to the first and second respondents. Thereafter, again, on 10.02.2015, she made representations to the first and second respondents, by enclosing all the documents to prove the impersonation done by the parties to the said fraudulent documents, requiring them to take action on the erring officials and against the documents in Document No.7734 of 2014 and Document No.8447 on the file of the third respondent. The respondents 1 and 2 received the said representation on 12.02.2015. Since the second respondent has not initiated any enquiry as prescribed under Circular No.67, the petitioner approached this Court and filed a Writ Petition in W.P.No.10904 of 2015 and this Court, by order dated 16.04.2015, directed the concerned authority to complete the enquiry in view of the complaint dated 10.02.2015 under Circular No.67, within eight weeks from the date of receipt of a copy of the order.

5. Subsequently, the second respondent passed order on 17.08.2015 declaring that the document Nos.7734 of 2014 and 8447 of 2014 are fake documents, but he did not pass any order for annulling the fraudulent documents. Hence, the petitioner preferred a Revision Petition on 24.10.2015 before the first respondent for annulling the above fraudulent documents. The said Revision Petition is pending on the file of the first respondent. In the meantime, the Central Crime Branch, Chennai has registered a case in Crime No.7 of 2016 on 04.01.2016 against the said M.K.Kubendran, K.Thatchinamoorthy, R.Mary Muthammal, Santhi and R.Raman for their impersonation. Four months have lapsed, but no action has been taken on the said Revision Petition. Hence, the petitioner has filed this Writ Petition for the above relief.

6. Heard both sides.

7. Though this Court is not inclined to give positive direction sought for by the petitioner in the Writ Petition with regard to the consequential direction to the third respondent not to register any kind of deed or instrument in respect of the property in question, but, based on the averments made by the petitioner in the affidavit filed in support of the Writ Petition and also taking into consideration the facts and circumstances of the case, this Court, without going into the merits of the case, directs the first respondent to take up the above said Revision Petition of the petitioner, dated 24.10.2015, conduct enquiry, afford an opportunity of personal hearing to the petitioner and necessary parties and thereafter pass appropriate orders and dispose of the said Revision Petition on merits and in accordance with law and also in the light of Circular No.67, dated 03.11.2011 issued by the first respondent, 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 on the merits of the claim of the petitioner and it is for the first respondent to decide the same.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

Copy to

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2. The District Registrar,
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Saidapet, Chennai.
3. The Sub-Registrar,
Velachery, Chennai.

+1 cc to Government Pleader sr.21264

+1 cc to Mr.T.Sundaravadanam Advocate sr.21034

W.P.No.12531 of 2016

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