

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12859 of 2016

1. Matha Educational Development Trust,
Reg. No.780/2004,
Represented by its Founder/Finance Trustee,
and Chairman M.D.Einstein
 2. M.D.Einstein
- Vs.
- .. Petitioners

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai-600 028.
 2. The District Registrar,
Registration Department,
Vellore District, Vellore.
 3. The Sub-Registrar,
Registration Department,
127, Chithoor-Vellore Road,
Dharapadavedu, Katpadi-632 007.
 4. A.P.Yesudass
 5. Y.Victoria
 6. Y.Malini
 7. Y.Vijayakumari
 8. Gladys Genever
 9. J.Selvanayagam
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order passed by the second respondent, vide his proceedings in Na.Ka.No.6908/Aa1/2015, dated 07.09.2015 and quash the same and consequently cancel the registration of fraudulent Gift Deed's Document No.1919/2009, dated 07.02.2009 and Document No.8737/2010, dated 27.09.2010 by disposing of the petitioner's application, dated 05.06.2015 in the light of the Circular No.67/2011, dated 03.11.2011 within a time frame that may be fixed by this Court.

For Petitioners : Mr.E.Vijay Anand

For Respondents : Mr.V.Jayaprakash Narayanan,
Spl.G.P. for RR-1 to 3

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order passed by the second respondent, vide his proceedings in Na.Ka.No.6908/Aa1/2015, dated 07.09.2015 and quash the same and consequently cancel the registration of fraudulent Gift Deed's Document No.1919/2009, dated 07.02.2009 and Document No.8737/2010, dated 27.09.2010 by disposing of the petitioner's application, dated 05.06.2015 in the light of the Circular No.67/2011, dated 03.11.2011 within a time frame that may be fixed by this Court.

2. Though very many averments are raised in the affidavit filed in support of the Writ Petition, it is seen that the petitioners have submitted a representation, dated 05.06.2015 to the respondents 1 and 2 (in the form of petition under Circular No.67, dated 03.11.2011) as against the respondents 4 to 9 herein, alleging registration of the above said fraudulent documents. Since the said representation was not considered, the petitioners have earlier filed Writ Petition No.23702 of 2015 before this Court and by order dated 04.08.2015, this Court directed the second respondent to consider and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of the order, after hearing the petitioner as well as the parties to the documents, which are sought to be cancelled. Pursuant to the said order of this Court, dated 04.08.2015 in W.P.No.23702 of 2015, the impugned order has been passed by the second respondent, dated 07.09.2015, rejecting the said representation of the petitioner, dated 05.06.2015. Aggrieved by the said order, dated 07.09.2015, the petitioner has filed this Writ Petition for the above relief.

3. Learned counsel for the petitioners submitted that as per Circular No.67 of 2011, dated 03.11.2011, the respondents 1 to 3 have to conduct enquiry by issuing notice to the executant(s) of the alleged fraudulent document(s). But, in the instant case, without taking into consideration the said Circular No.67 of 2011 and without conducting any enquiry as per the directions issued in the said Circular No.67 of 2011, the second respondent has merely rejected the said representation based on discussion of facts and documents discussed therein. In this regard, learned counsel for the petitioners prayed that the petitioners may again be permitted to make a fresh representation seeking the above relief under the said Circular No.67, dated 03.11.2011.

4. Heard the learned Special Government Pleader appearing for the respondents 1 to 3 on the above aspects. In view of the order that is going to be passed in this Writ Petition, it is not necessary to issue notice to the respondents 4 to 9.

5. This Court finds some force in the above submissions made by the learned counsel for the petitioners. Therefore, this Court is constrained to set aside the impugned order. Accordingly, the Writ Petition is allowed and while setting aside the impugned order passed by the second respondent and remitting the matter back to the second respondent, this Court directs the petitioners to submit a fresh representation to the second respondent raising the issues that are raised in this Writ Petition; on receipt of such representation, the second respondent is directed to consider the said representation, conduct enquiry, afford an opportunity of hearing to the petitioner and respondents 4 to 9 and other necessary parties, pass appropriate orders, on merits and in accordance with law, and also by taking into consideration the directions set out in the said Circular No.67, dated 03.11.2011 and dispose of the said representation 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 petitioners and it is for the second respondent to decide the same based on the issue involved in the matter. No costs.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

CS
TO

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road, Chennai-600 028.
2. The District Registrar,
Registration Department,
Vellore District, Vellore.
3. The Sub-Registrar,
Registration Department,
127, Chithoor-Vellore Road,
Dharapadavedu, Katpadi-632 007.

+1cc to Mr.E. Vijay Anand, Advocate, S.R.No.21738
+1cc to the Government Pleader, S.R.No.22223

SKS (CO)
EU(27/04/2016)

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