

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.15307 of 2016

Mr. Gnanadurai

... Petitioner

Vs.

1. The Sub Registrar,
Adyar,
Chennai 600 020.
2. Mr. Palaniappan

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the first respondent to consider the representation of the petitioner vide the legal notice dated 18.2.2016 and cancel the Settlement Deed in Document No.1068/2012 within the time frame fixed by this Court.

For Petitioner : Dr.P.Vasudevan

For Respondent : Mr.S.Navaneethan
Addl. Govt. Pleader

O R D E R

By consent, the Writ Petition is taken up for hearing at the stage of admission itself.

2. The petitioner has come forward with this Writ Petition seeking for a mandamus upon the 1st respondent to consider the representation of the petitioner vide the legal notice dated 18.2.2016 and cancel the settlement Deed in Document No.1068/2012 within the time frame fixed by this Court.

3. The case of the petitioner, in brief, is as follows;

(i) The petitioner is a senior citizen aged about 82 years and he served in the Navy for nearly 30 years and he is unmarried and living alone. The petitioner is the absolute owner of the property bearing Door No.29/34, Alcott Colony, 1st Street, Thiruvallur Nagar, Besant Nagar, Chennai, comprised in S.No.168 Block No15, Oorur Village, Mylapore, Triplicane Taluk, South Chennai Division within the Registration Sub District of

Adyar and Registration District of Madras South and he has acquired the same under a registered sale deed dated 27.09.1999 under Document No.1600/1999.

(ii) The 2nd respondent is the petitioner's brother's son and due to his growing age, he used to receive help from the 2nd respondent. Whiles, the 2nd respondent, under the pretext of helping the petitioner, intimidated him to transfer the above mentioned property in his name and promised him that he will take care of the petitioner throughout his life. The 2nd respondent fraudulently prepared a document in a Rs.50/- stamp paper and took the petitioner to the 1st respondent office and made him to execute the document by misrepresenting as if the 2nd respondent is the son of the petitioner. Thus the settlement deed under Document No.1068 of 2012, came to be executed by committing fraud.

(iii) Even though the settlement deed was executed on 16.5.2012, it is not acted upon since the 2nd respondent has not complied with the conditions imposed in the settlement deed. Now the petitioner is in possession and enjoyment of the said property mentioned in the alleged settlement deed dated 16.5.2012. After registration of the Settlement Deed, the 2nd respondent took the original documents pertaining to the property and put the petitioner in lurch and never cared for him and is trying to enjoy the proceeds from the said property by selling the same by falsely representing himself as the son of the petitioner.

(iv) The 2nd respondent is not authorised to deal with the above mentioned property. Hence the petitioner issued a legal notice dated 18.2.2016 to the respondents 1 and 2, duly informing about the fraud committed by the 2nd respondent to the petitioner and at no point of time, the 2nd respondent was recognized as the petitioner's son. The 1st respondent duly received the notice, but the notice sent to 2nd respondent was returned with an endorsement 'left'.

(v) The settlement deed with document No.1068 of 2012 was registered by production of false evidences and documents by the 2nd respondent. Therefore, the said deed is illegal and void abinitio. The 1st respondent is empowered under the Registration Act to cancel the document created by fraud and also the Circular which authorises the first respondent to cancel the fraudulent registration done within this jurisdiction.

(vi) Now the 2nd respondent is trying to sell the property to third parties and if he is able to complete the sale transaction, the petitioner will be put to irreparable loss and injury. Since no action was taken by the first respondent on the

representation given by the petitioner dated 18.2.2016 and the same is kept pending till date, and hence the petitioner has filed the present writ petition

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the first respondent.

5. In view of the submissions of learned counsel for petitioner, this Court, in the interest of justice, without going into the merits of the case, directs the petitioner to give a fresh representation to the 1st respondent enclosing a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the 1st respondent is directed to consider the representation of the petitioner dated 18.2.2016 and conduct enquiry by way of affording an opportunity of personal hearing to the petitioner as well as to the second respondent herein 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.

6. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is for the 1st respondent to decide the matter purely on merits.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

msr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Sub Registrar,
Adyar, Chennai 600 020.

+ 1 cc to Dr.P.Vasudevan, Advocate Sr 25786
+ 1 cc to The Govt.Pleader, Sr 26624

KR/2/6/16

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