

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15838 of 2016
and
W.M.P.No.13746 of 2016

1.R.Nagammal
2.M.Revathi,
through power of attorney agent
P.Sivaprakasam ... Petitioners

Vs.

1. The Inspector General of
Registration,
No.100, Santhome High Road,
Chennai-28.
2. The Joint Registrar, SRO-II,
South Chennai District Registrar
Office,
No.9, Jones Road,
Saidapet, Chennai-15.
3. R.Vasantha
4. R.Mohana Sundaram ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 and 2 to enquire into the objections made by the petitioners in its communication dated 6.10.2015 received by the respondent on 14.10.2015 expeditiously and pass orders for cancellation of Doc.No.1677 of 2015 dated 14.7.2015 on the file of the second respondent herein.

For Petitioners : Mr.Gowthaman

For Respondents : Mr.S.Navaneethan,
Additional Government Pleader.

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the respondents 1 and 2 to enquire into the objections made by them in their communication dated 6.10.2015 received by the respondents on 14.10.2015, expeditiously and pass orders for cancellation of Doc.No.1677 of 2015 dated 14.7.2015 on the file of the second respondent herein.

2. The case of the petitioners, in brief, is as follows:-

(a) Originally, the property (Grama Natham), measuring to an extent of 6096 sq.ft. comprised in Survey No.187/5, Kambar Salai, Ramavaram Village, Maduravoyal Taluk, Thiruvallur District, was absolutely owned and possessed by one Anjammal, the grandmother of the second petitioner and one Raji, the father of the second petitioner. Out of the said 6096 sq.ft, they have sold 3135 sq.ft. on 31.8.1998 in favour of late K.Ramakrishnan, who is the husband of the third respondent and father of the fourth respondent by registered sale deed vide document No.3069 of 1988 and retained 2961 sq.ft. of land for their own use.

(b) Subsequently, late K.Ramakrishnan, filed a suit in O.S.No.377 of 2004 for specific performance of a sale agreement dated 5.5.1993 and the said suit was dismissed on 28.2.2010 by the District Munsif Court, Poonamallee by observing that the sale agreement was a forged, fabricated and bogus one. Against the dismissal order, an appeal was filed in A.S.No.21 of 2010 and the same was also dismissed. After that, the said K.Ramakrishnan filed a second appeal in S.A.No.1632 of 2011 and the same was also dismissed by this Court.

(c) In the meanwhile, the said K.Ramakrishnan based on the purchase of a portion measuring to an extent of 3135 sq.ft., sole two small portions measuring to an extent of 323 sq.ft. and 1200 sq.ft. in favour of the third parties vide document Nos.2400 of 2006 and 1028 of 2015 dated 1.12.2006 and 27.4.2015. Further, during the pendency of the suit, the said K.Ramakrishnan had illegally and fraudulently obtained patta on 26.12.2013 for an extent of 4573 sq.ft. of land situated in Survey No.187/5, re-survey No.248/9 in Patta No.278 from the Special Tahsildar, Natham Land Tax Scheme (Phase-I), Ambattur Taluk, which is rightfully and legitimately owned by the petitioners. On coming to know about the same, the petitioners submitted a representation dated 18.5.2015 to the Special

Tahsildar, Natham Land Tax Scheme (Phase-I), Ambattur Taluk, requesting him to conduct enquiry and cancel the patta.

(d) Since no action was taken on the said representation, the petitioners filed writ petition before this Court in W.P.No.32293 of 2015 and in the said writ petition, this Court, by order dated 12.10.2015, directed the Special Tahsildar to consider the objections raised by the petitioners and pass appropriate orders after affording opportunity to the parties. Even though enquiry was held on 6.1.2016, till date, no order has been passed in the said representation. In the meantime, the said K.Ramakrishnan within an intention to encumber the petitioners' land, had fraudulently and clandestinely executed a settlement deed on 14.7.2015 in favour of his wife and son. Immediately, the petitioners sent an objection dated 6.10.2015 to the respondents 1 and 2 and though the respondents 1 and 2 received the same on 14.10.2015, till date, no action was taken on the said objections. Hence, left with no other alternative, the petitioners have come up with the present writ petition for the relief set out earlier.

3. Learned counsel appearing for the petitioners submitted that as per Circular No.67 dated 3.11.2011 bearing C.No.52338/ C1/2011 issued by the first respondent, whenever a complaint regarding fraudulent registration is received, the second respondent shall conduct an enquiry by summary procedure and shall complete the same within a maximum period of two months. Despite the same, the second respondent has not chosen to institute any proceedings till date. Hence, he seeks a direction to the respondents 1 and 2 to enquire into the objections made by them in their communication dated 6.10.2015 received by the respondent on 14.10.2015, expeditiously and pass orders for cancellation of Doc.No.1677 of 2015 dated 14.7.2015 on the file of the second respondent herein.

4. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents 1 and 2.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to conduct an enquiry on the objections made by the petitioner dated 6.10.2015, by affording an opportunity of personal hearing to the petitioners as well as to the respondents 3 and 4 and other necessary parties, if any, and pass appropriate orders / take appropriate action, on merits and in accordance with law and in the light of Circular No.67 dated 3.11.2011 in C.No.52338/ C1/2011, within a period of 12 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 merits of the claim projected by the petitioners and it is for the second respondent to consider the claim of the petitioners strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar
sbi

To

1. The Inspector General of
Registration,
No.100, Santhome High Road,
Chennai-28.
2. The Joint Registrar, SRO-II,
South Chennai District Registrar
Office,
No.9, Jones Road,
Saidapet, Chennai-15.

+1cc to Mr.Gowthaman, Advocate, S.R.No.26398

W.P.No.15838 of 2016

GJ II(CO)
CA(17/05/2016)

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