

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.30237 of 2015
and
MP.No.1 of 2015

Thangavel

... Petitioner

Vs.

1. The District Registrar,
Kallakurichi,
Villupuram District.

2. The Sub Registrar,
Elavasanoorkottai,
Villupuram District.

3. Kuppan

4. Ramar

.... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the second respondent to enquire and investigate and cancel the document Nos.1023/2014 and 1024/2014 registered on 02.04.2014, on the file of the Sub Registrar Office, Elavasanoorkottai.

For Petitioner : Mr.G.Ranganathan

For R1 & R2 : Mr.V.Jayaprakash Narayanan,
Senior Government Pleader

For R3 & R4 : Mr.R.Kumaravel

O R D E R

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to enquire, investigate and cancel the document Nos.1023/2014 and 1024/2014 registered on 02.04.2014, on the file of the Sub Registrar Office, Elavasanoorkottai.

2. It is the case of the petitioner that he is the absolute owner of the property measuring to an extent of 1 cent, out of 15 cents, comprised in S.No.78/3 in Patta No.311, Sirupakkam Village, Ulundurpettai Taluk, Villupuram District by way of inheritance. Originally, as per the revenue records, the total extent of land consists of 0.35 ares, for which, a joint patta No.311 came to be issued. The petitioner is one among the joint patta holders of 16 persons viz., (i)Munusamy S/o.Arasan (ii)Muthu S/o.Arumugam (iii)Gopal S/o.Veeramuthu (iv)Govindasamy S/o.Arasan (v)Kandan S/o.Annamalai (vi)Thangavel S/o.Iyyakannu (vii)Appavu S/o.Annamalai (viii)Ammasi S/o.Chinnaswamy (ix) Arunan S/o.Malaiyan (x)Chinnapaiyan S/o.Narayanan (xi)Veeramuthu S/o.Ramaswamy (xii)Ramar S/o.Arasan (xiii)Thangavel S/o.Natesan (xiv)Chinnaiyan S/o.Molavan (xv)Kuppan S/o.Ammasi and (xvi)Ramar S/o.Ammasi S/o.Ramar and they are keeping their respective property as vacant site and utilised the same as dump yard without any disturbance. While so, on 05.05.2015, the fourth respondent trespassed into his property and tried to put up a house. When the petitioner objected the same, he was informed that respondents 3 and 4 had purchased the property to an extent of 15 cents each through document Nos.1023 and 1024 of 2014 dated 02.04.2014 on the file of the Sub Registrar office, Elavasanoorkottai, Ulundurpettai Taluk, Villupuram District from one (i)Muthu S/o.Arumugam (ii)Gopal S/o.Veeramuthu (iii)Ammasi S/o.Chinnasamy (iv)Malaiyan S/o.Chinnapaiyan (v)Pattu W/o.Arjunan (vi)Anjalai W/o.Dhatchanamoorthy and (vii)Rani W/o.Sanmugam.

3. It is the further case of the petitioner that the total available extent is only 15 cents in S.No.78/3. In order to grab the said land, respondents 3 and 4 created a fraudulent document and presented it for registration before the second respondent. The second respondent, without following the procedure laid down in Circular No.67 issued by the Inspector General of Registration and without making any enquiry, registered the same on 02.04.2014. On coming to know about the same, the petitioner made a detailed representation to the first respondent dated 06.05.2015, requesting him to enquire, investigate and cancel the documents bearing Nos.1023 and 1024 of 2014 dated 02.04.2014 on the file of the Sub Registrar Office, Elavasanoorkottai, Ulundurpettai Taluk, Villupuram District. In spite of receipt of the same, no action has been taken by the first respondent. Therefore, the petitioner has filed the present writ petition for the above stated relief.

4. Denying the averments raised in the writ petition, the respondents 3 and 4 filed a counter affidavit, wherein it has been stated as follows:

(i) They have purchased each 15 cents by way of registered sale deeds in Doc.Nos.1023 and 1024 of 2014 on the file of the second respondent.

(ii) S.No.78/3 bearing Patta No.311 is measuring about 35 ares (86 cents), for which, a joint patta was issued to 14 co-owners and the petitioner is one among them. Therefore, each of them would get about 6 cents of land. Accordingly, the petitioner is the owner of the land measuring about 6 cents by virtue of sale deed No.26/1979 and the claim of the petitioner over 1 cent vacant house site is untenable.

(iii) Out of 14 co-owners, 5 co-owners executed absolute sale in favour of respondents 3 and 4, the details of whom are as follows: (i) Muthu S/o.Arumugam (ii) Gopal S/o.Veeramuthu (iii) Ammasi S/o.Chinnsamy (iv) Malayan S/o.Chinnapaiyan and (5) legal heirs of Arujunan S/o.Malayan viz., (a) Pattu (wife) (b) Anjalai and (c) Rani (daughters). Thus, respondents 3 and 4 have become the owners of more than or about 30 cents of land in S.No.78/3 bearing patta no.311. Subsequently, the patta has been issued by including these respondents as co-owners. The respondents 3 and 4 have made representation to separate their land from joint patta by metes and bounds, which is still pending.

(iv) The third respondent by name Kuppan also purchased another 6 cents from Thangavel S/o.Natesan, who is one of the co-owners by sale deed No.1139/2014. By virtue of three sale deed nos.1023, 1024 and 1139/2014, the total extent of land owned by respondents 3 and 4 is about 36 cents. Therefore, he made an application to the Tahsildar to make sub division and also paid necessary charges vide Treasury Receipt dated 29.06.2015. In fact, the writ petitioner assaulted for this land issue. Hence, he lodged a police complaint, in which, the village elders compromised the matter and the writ petitioner and the third respondent agreed to measure S.No.78/3 based on their respective sale deeds. Therefore, the writ petitioner did not come with clean hands and suppressed the material facts before this court.

(v) The circular issued by the Inspector General of Registration is only to curb illegal transfer by fabrication of documents or impersonation or without trace of title, but the sale deed nos.1023 and 1024 of 2014 are executed by the owners under patta no.311, in which, the writ petitioner who is one of the co-owners, cannot restrain other co-owners from executing the sale deed in favour of respondents 3 and 4. Further, the petitioner himself agreed to survey and measure the land in an compromise letter dated 23.06.2015.

(vi) Further, in the order dated 22.12.2011 made in WP (MD) No.11651 of 2011 (Rajambal v. Inspector General of Registration) while dealing with Circular No.67 and other provisions of the Registration Act and Rules, this Court has held that the persons whose name found place in patta is sufficient to register with identities of the executants nothing else, if any title dispute, it can be decided by competent civil court. Therefore, the writ petition cannot be allowed to sustain against these respondents and the same is not maintainable on facts and in law and is liable to be dismissed.

5. Heard the learned counsel for the petitioner, learned Special Government Pleader for respondents 1 and 2 and learned counsel for respondents 3 and 4.

6. Keeping the submissions made on either side, I have perused the materials placed before this court. In this writ petition, the petitioner sought for a direction to the second respondent to enquire, investigate and cancel the sale deeds executed in favour of respondents 3 and 4. It is the specific case of the petitioner that in order to grab his land in S.No.78/3 in Patta No.311, Sirupakkam Village, Ulundurpettai Taluk, Villupuram District, respondents 3 and 4 created the forged documents and got the same registered as Document Nos.1023 and 1024 of 2014 on 02.04.2014 by the second respondent, whereas, the same is denied by the respondents 3 and 4. In my considered view, such disputed issues cannot be gone into by this Court and the same can be determined only by a civil forum on analysis of oral and documentary evidence, after full fledged trial. In the writ petition, this Court cannot conduct a roving enquiry upon the materials produced on either side, by exercising its power under Article 226 of the Constitution of India. Therefore, the relief sought for in this writ petition cannot be granted.

7. Accordingly, the writ petition is dismissed. However, the petitioner is at liberty to approach the civil court concerned by filing a civil suit, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

rk

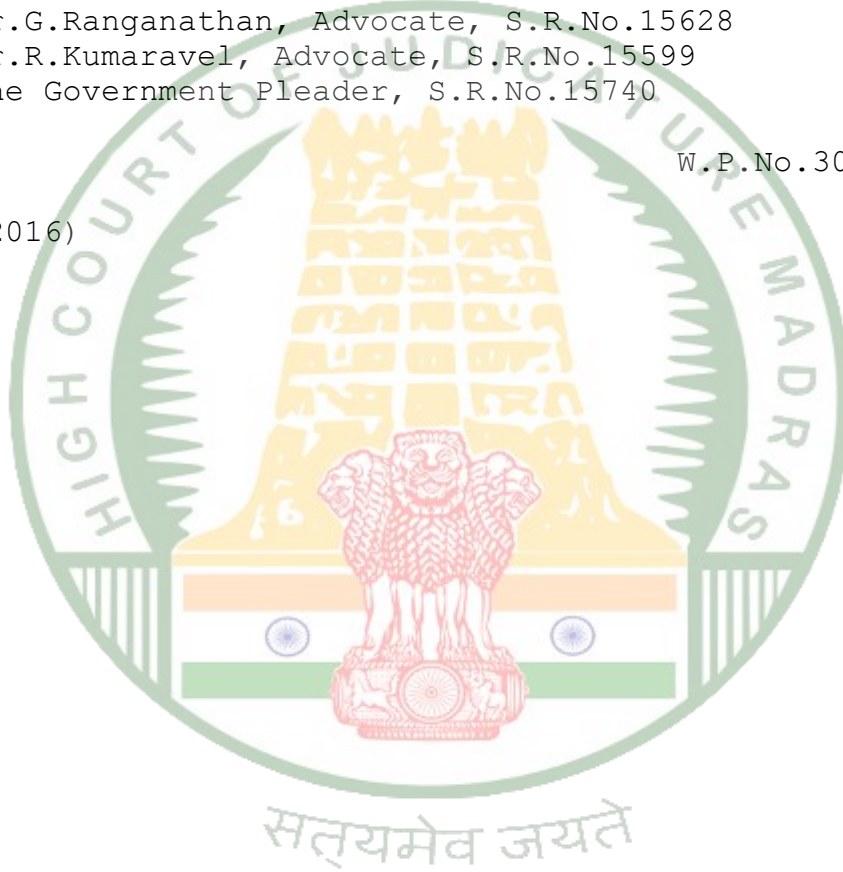
To

1. The District Registrar,
Kallakurichi,
Villupuram District.
2. The Sub Registrar,
Elavasanoorkottai,
Villupuram District.

+1cc to Mr.G.Ranganathan, Advocate, S.R.No.15628
+1cc to Mr.R.Kumaravel, Advocate, S.R.No.15599
+1cc to the Government Pleader, S.R.No.15740

W.P.No.30237 of 2015

SV(CO)
CA(06/04/2016)



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