

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.2005 of 2016

Sri Nandhanam Educational & Social Welfare Trust
rep. by its Chairman
P.M.N.Mohan Krishnaa

... Petitioner

vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai 600 028.

2.The District Registrar,
O/o.District Registrar,
Fort, Vellore City and District.

3.The Sub Registrar,
Tirupattur,
Vellore District.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceeding issued by the first respondent in No.06375/U1/2013 dated 27.06.2013 and to quash the same and consequently, direct the respondents to proceed with cancellation of fraudulently registered document in Document No.1092 of 2011 dated 11.05.2011 on the file of the Sub Registrar Office, Tirupattur and withdrawal of endorsement of document availed to the same, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

The petitioner has come up with the present writ petition challenging the communication issued by the first respondent dated 27.06.2013 and consequently, directing the respondents to proceed with the cancellation of the fraudulent document bearing No.1092 of 2011 dated 11.05.2011 on the file of the Sub Registrar Office, Tirupattur and withdraw the endorsement made in the document, within a time frame to be fixed by this Court.

2. It is the case of the petitioner that the petitioner Trust was established by one P.M.M.Nandhagopal in the year 2000. They are running Educational institutions to impart quality education to the poor rural people. After the death of the said P.M.M.Nandhagopal in June 2012, his son P.M.N.Mohan Krishnaa assumed the charge as Chairman of the petitioner Trust, as per the Board Resolution dated 29.06.2012. During the life time of the said P.M.M.Nandhagopal, he had executed a Codicil Trust Deed, which was registered as Document No.1092 of 2011 dated 11.05.2011 on the file of the Sub Registrar, Tirupattur to the effect that his son P.M.N.Mohan Krishnaa and other trustees have resigned from the Trust Board. However, according to P.M.N.Mohan Krishnaa, the said Codicil Trust Deed was executed without the knowledge of the concerned persons. In fact, they have not tendered any resignation letter to any one and they never expressed or implied any intention to resign from the Trust Board at any point of time. But, the third respondent, without ascertaining the authority of the executant of the document and correctness of the contents of the document, with reference to the alleged letter of resignation submitted by the Board of Trustees, has registered the said document.

3. It is the further case of the petitioner that with regard to fraudulent registration of the documents or production of the false documents, the first respondent, Inspector General of Registration, Chennai-28 issued Circular No.67 dated 03.11.2011, directing the District Registrar to conduct enquiry and pass appropriate orders for cancelling the registration of such documents. Pursuant to the said G.O., the said P.M.N.Mohan Krishnaa, who is the chairman of the petitioner Trust, made an application to the first respondent, seeking to cancel the registration of the Document bearing No.1092 of 2011 dated 11.5.2011 and to withdraw the endorsement made in the same. However, the first respondent, by the impugned communication dated 27.06.2013, directed the second respondent, not to take further action to cancel the registration of the said document, in view of the stay order granted by the High Court of Madras and Madurai Bench against Circular No.67 dated 03.11.2011, however directed the second respondent to take action under

Section 83 of the Registration Act. The copy of the letter dated 27.06.2003 has been sent to the said P.M.N.Mohan Krishnaa. Aggrieved over the same, the petitioner has filed the present writ petition for the above stated relief.

4. A counter affidavit has been filed by the third respondent, inter alia stating as follows:

(i) The High Court in catena of judgments held that the Registering Officer has no locus standi to enquire or verify before registration of a document, whether the persons executed has right, title and ownership over such property.

(ii) The Inspector General of Registration, Chennai, in his Circular No.67 dated 03.11.2011 has issued the procedure to deal with the complaints relating to fraudulent registration through impersonation or production of false documents and evidence. Challenging the same, a writ petition was filed and an order of interim stay was granted by the High Court, restraining the respondent for cancellation of the fraudulently registered document. Therefore, the first respondent has issued the impugned communication, not to take further action for cancellation of fraudulently registered document and to take necessary steps under Section 83 of the Registration Act.

5. When the matter came up for consideration, it is submitted by the learned counsel for the petitioner that Circular No.67 dated 03.11.2011 was subsequently upheld by the learned Single Judge of this Court. Challenging the same, a writ appeal was filed and the same is pending. However, there is no interim order in the said writ appeal. The said submission is fairly conceded by the learned Special Government Pleader appearing for the respondents.

6. In view of the above submission, this Court is inclined to set aside the impugned letter dated 27.06.2013 issued by the first respondent. Accordingly, the letter of the first respondent dated 27.06.2013 is set aside and the matter is remanded back to the respondents for passing fresh orders. The second respondent is directed to conduct enquiry by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any and pass appropriate orders with regard to cancellation of fraudulently registered document bearing No.1092 of 2011 dated 11.05.2011 on the file of the Sub Registrar, Tirupattur, on merits and in accordance with law and also in the light of Circular No.67 dated 03.11.2011. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly ordered. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Inspector General of Registration,
100, Santhome High Road, Chennai 600 028.

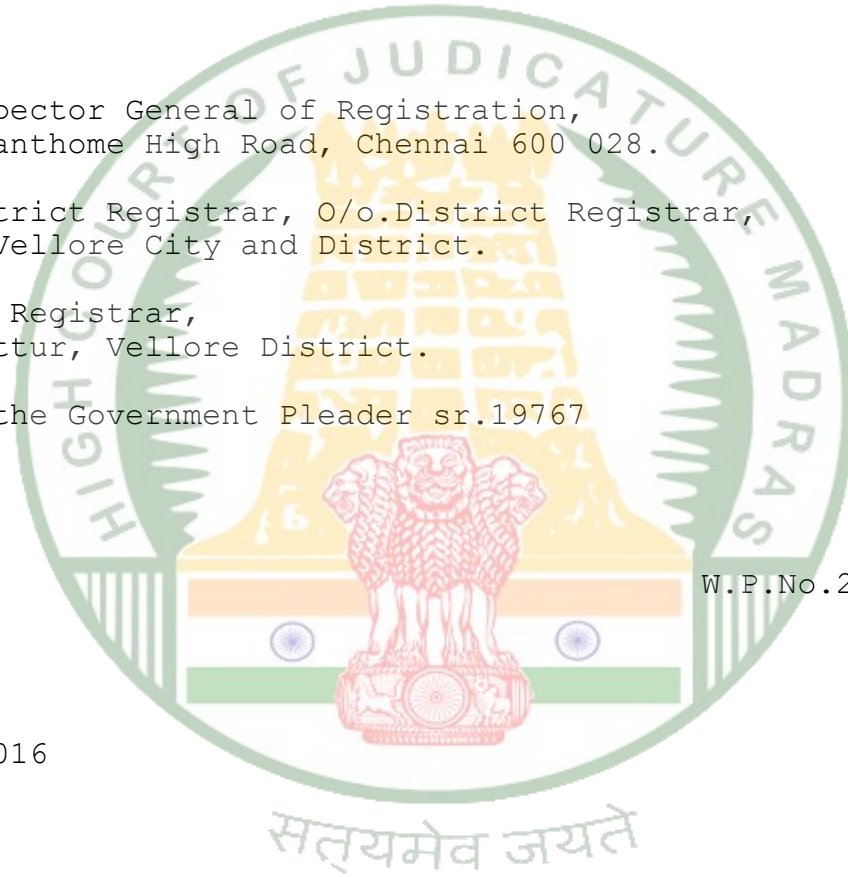
2.The District Registrar, O/o.District Registrar,
Fort, Vellore City and District.

3.The Sub Registrar,
Tirupattur, Vellore District.

+1 cc to the Government Pleader sr.19767

W.P.No.2005 of 2016

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