

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.7.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.Nos.32082 of 2015 and 15319 of 2016
and
M.P.No.1 of 2015

W.P.No.32082 of 2015:

Mr.N. Udayasingh Petitioner

Vs

1.The Revenue Divisional Officer

Ambattur Division

Ambattur, Chennai - 600 053.

2.The Tahsildhar

Ambattur Taluk

Ambattur, Chennai-600 053.

3.N.Ponsingh

4.The Branch Manager

HDFC Bank Limited

No.56, G.N. Chetty Road

T. Nagar, Chennai-17.

...Respondents

Prayer in W.P.No.32082 of 2015: This writ petition has been filed to issue a Writ of Mandamus directing the first respondent to dispose of the petitioner's representation, dated 28.12.2014 in accordance with law and within a time frame.

For Petitioner : Mr.V. Bhiman for M/S.Sampath
kumar & Associates
For Respondent Nos.1 & 2 : Mr.P. Karthikeyan
For Respondent No.3 : Mr.R.Subramanian
R-4 :Mr.D.Saravanan

W.P.No.15319 of 2016:

Mr.N. Udayasingh

... Petitioner

Vs

1.The Assistant Commissioner
Commercial Tax Department
Korattur Circle
Yadhaval Street, Padi,
Chennai-600 050.

2.Mr.N.Ponsingh

...Respondents

Prayer in W.P.No.15319 of 2016: This writ petition has been filed to issue a Writ of Mandamus directing the first respondent to dispose of the petitioner's complaint, dated 13.2.2016 in accordance with law and within a time frame.

For Petitioner : Mr.V. Bhiman for
Mr.P.RajeshKumar
For Respondent No.1 : Mr.P. Karthikeyan
For Respondent No.2 : Mr.R.Subramanian

COMMON ORDER

Heard the learned counsel, appearing on behalf of the petitioner, as well as the learned counsels, appearing for the respondents.

2.The writ petition, in W.P.No.15319 of 2016, has been filed, praying that this Court may be pleased to issue a Writ of Mandamus directing the first respondent therein to dispose of the complaint made by the petitioner, dated 13.2.2016, in accordance with law, within the time frame as may be fixed by this Court.

3.The Writ Petition, in W.P.No.32082 of 2015, has been filed, praying that this Court may be pleased to issue a Writ of Mandamus directing the first respondent therein to dispose of the representation of the petitioner, dated 28.12.2014, in accordance with law, within the time frame as may be fixed by this Court.

4.It has been stated that the petitioner is the owner of the properties comprised in Survey No.1177/1A Part and 1175 of Korattur Village, Ambattur Taluk, Thiruvallur District, having an extent of 1612 sq.ft.

5.The petitioner has stated that he had purchased the said properties in question, by way of the sale deeds registered as Doc.Nos.1068/2001 and 1070/2001, on the file of the Sub Registrar, Villivakkam.

6.It had also been stated that the petitioner had purchased 1/4th share of land measuring about 5 ½ cents, in Survey No.1159 of Korattur Village, Ambattur Taluk, Thiruvallur District, by a deed of sale, registered as Doc.No.4387 of 1990.

7. The petitioner has alleged that his brother, N.Ponsingh, had got the property registered in his name by way of a sale deed, said to have been executed by his wife as the Power of Attorney of the petitioner.

8.The petitioner has stated that he has not appointed anyone as his Power of Attorney for dealing with the property in question. However, the third respondent in W.P.No.32082 of 2015, the brother of the petitioner, had obtained a Town Survey Patta, in respect of the properties in question, from the second respondent, based on the alleged sale deed said to have been executed in his favour.

9.It is also alleged that the third respondent is attempting to sell the properties to third party purchasers. In such circumstances, the petitioner had submitted a representation to the Revenue Divisional Officer, Ambattur Division, Ambattur, Chennai, to cancel the patta issued by the Tahsildar, Ambattur, Chennai.

10.It has also been stated that his brother, N. Ponsingh, had also created a mortgage with HDFC Bank Limited, T.Nagar Branch, Chennai, in respect of the properties in question. He has approached the Commissioner of Police, by lodging a complaint, on 7.4.2016, seeking to take an appropriate action as against his brother, N.Ponsingh.

11.It has also been stated that the petitioner is the absolute owner of the shops, bearing Door Nos.881/7 and 881/8, situated at M.T.H. Road, Padi, Chennai.

12.While so, the brother of the petitioner, N.Ponsingh, with an intention to encroach upon the said property, had created a false and forged General Power of Attorney as if the

petitioner had given the power to his wife, Mrs. Brahala, and had got the sale deed registered in his name, under Doc.No.1430 of 2009, on the file of the office of the Sub Registrar,Villivakkam.

13.Therefore, the petitioner had made a complaint to the District Registrar, to cancel the forged document, on 3.12.2014. Consequently, the petitioner had also made a representation to the first respondent, on 13.2.2016, to cancel the certificate of registration obtained by his brother under the name and style of M/s.Sabari Vasan Hardware Store, in TIN N.33131441828. Since the Assistant Commissioner, Commercial Tax Department, Korattur Circle, Chennai, the first respondent, in W.P.No.15319 of 2016, had not acted upon the representation made by the petitioner on 13.2.2016, he has filed the writ petition, in W.P.No.15319 of 2016, praying that this Court may be pleased to issue a Writ of Mandamus directing the first respondent to dispose of the representation, dated 13.2.2016.

14.The learned counsel appearing on behalf of the respondents in the above writ petitions had submitted that the allegations made by the petitioner, in the affidavit filed in support of the writ petitions, are false and frivolous in nature.

15.As the petitioner has made certain allegations against his brother, namely, N. Ponsingh, that the properties of the petitioner had been taken away, illegally, by way of forged documents, including the Power of Attorney and sale deeds, the complaints and the representations made by the petitioner cannot be gone into, by the authorities concerned, as prayed for by the petitioner in the above writ petitions.

16.It has been further submitted that the petitioner ought to prove his allegations, by way of evidence, both oral and documentary, before the appropriate civil forum. As such, the reliefs prayed for by the petitioner, in the above writ petitions cannot be sustained.

17.In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on perusal of the records available, this court is of the considered view that the reliefs prayed for, by the petitioner, in the above writ petitions, cannot be granted by this Court.

18.The allegations of fraud and forgery made by the petitioner, against his brother and his wife, cannot be gone into, either by the Assistant Commissioner, Commercial Taxes Department, Korattur Circle, or by the Revenue Divisional

Officer, Ambattur Division, Chennai, merely based on the representations made by the petitioner. No roving enquiry can be conducted by them to find out the truth, in respect of the allegations made by the petitioner. Therefore, this Court is of the view that no cause would be served by directing the said authorities to dispose of the representation made by the petitioner. Hence, the writ petitions stand dismissed. However, it may be open to the petitioner to seek his remedies, before the appropriate civil forum, if so advised, in the manner known to law.

Accordingly, the writ petitions are dismissed, with the above observations. No costs. Consequently, connected M.P. is also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rnb
To

1.The Revenue Divisional Officer,
Ambattur Division,
Ambattur, Chennai 600 053.

2.The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai 600 053.

3.The Assistant Commissioner,
Commercial Tax Department,
Korattur Circle,
Yadhaval Street, Padi,
Chennai-600 050.

+1cc to M/S.Sampathkumar, Advocate Sr.42797
+2cc to Mr.R.Subramanian, Advocate Sr.42137 & 42136
+1cc to the Government pleader Sr.42429
+1cc to Mr.P.Rajeshkumar, Advocate Sr.42251

W.P.Nos.32082 of 2015 and 15319 of 2016
and
M.P.No.1 of 2015

srg 02/08/2016