

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.39637 of 2015
and MP.Nos.1 and 2 of 2015

1.P.Chellamuthu
2.S.Rani

.. Petitioners

Vs.

1.The Sub Registrar
Sub Registrar Office
Ganapathi, Coimbatore.

2.The Inspector of Police,
Land Grabbing Cell
Coimbatore District.

3.A.Loganathan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records pertaining to the impugned letter dated 14.02.2014 issued by the 2nd respondent to the 1st respondent and quash the same and to direct the 1st respondent to register documents when presented by the petitioners pertaining to their property situated at SF.No.3/1A Part, Villankurichi Village, Coimbatore measuring an extent of 1.95 acres.

For Petitioner : M/s.N.Anand Venkatesh

For respondents: M/s.P.Rajalakshmi, GA for R1 and R2.
Mr.C.R.Prasanan for R3.

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come up with the present writ petition for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned letter dated 14.02.2014 issued by the 2nd respondent to the 1st respondent and quash the same and to direct the 1st respondent to register documents presented by the petitioners pertaining to their property situated at SF.No.3/1A Part, Villankurichi Village, Coimbatore measuring an extent of 1.95acres.

3.The petitioners are the absolute owners of the property situated at SF.No.3/1A part, Vilankurichi Village, Coimbatore to an extent of 1.95 acres in Punja lands. The petitioners purchased the said property from their Principal/Santhalingam vide sale deed dated 20.03.2012 executed by his Power of Attorney agent M.Ramalingam. The petitioners are in possession and enjoyment of the property from the date of their purchase. In pursuant to the sale deed, the Tahsildar, Coimbatore North issued joint patta and also granted certificates as well as Sketch showing their property and by paying urban land tax.

4.The petitioner submits that one Shanmugavel and three others filed OS.No.415 of 2014 on the file of Sub Court, Coimbatore against the petitioner's vendor and also against the petitioner for the relief of declaration and injunction, challenging the sale deed dated 20.03.2012 and for permanent injunction. The petitioners also filed OS.No.358 of 2014 on the file of the V Additional District Judge, FTC-III, Coimbatore against their vendor, Power of Attorney agent and also against the said Shanmugavel and others for the relief of declaration of title and permanent injunction. The above said suits are still pending.

5.In the meanwhile, FIR has been registered on 19.12.2011 against the vendor and power agent in Cr.No.31/2011 on the file of the second respondent based on the complaint given by one Loganathan and others. During the pendency of the investigation, the second respondent has passed the impugned order dated 14.02.2014 and communicated the same to the first respondent stating that the investigation is pending and till the completion of criminal case, no transactions should be registered in respect of the said property and the impugned order must be registered as an encumbrance. Challenging the said impugned order, the petitioner filed the present writ petition.

6.The first respondent filed his counter stating that the petitioners have not stated that they are bonafide purchasers, the petitioners have obviously purchased the property during the pendency of the criminal complaint filed by one Loganathan before the Land Grabbing Cell and the title is in dispute as admitted by the petitioners and prayed for dismissal of the writ petition.

7.The second respondent has filed his Counter interalia stating the complaint was lodged by the third respondent, based on the complaint, FIR was registered as against the Santhalingam and Ramalingam under Section 120-B, 420, 465, 468m 506(1) in DCB Crime No.31 of 2011 which is pending before the Judicial Magistrate No.II, Coimbatore for fabricating false documents and in order to suffer the defacto complainant and to protect the property, in the interest of public and to safeguard the subsequent purchaser should not suffer or

cheated, communicated the impugned order dated 14.02.2014 to the first respondent to create an encumbrance and thus sought for dismissal of the writ petition.

8.The third respondent filed his counter interalia stating that the impugned order dated 14.02.2014 sent by the second respondent to the first respondent only to take note of the fraudulent act committed by the said Ramalingam and Santhalingam. In fact, the third respondent purchased the property as early as on 13.12.1985 under Document No.5846/1985 and similarly Shanmughavel, Maheshkumar and Maliga also purchased the other parts as early as on 23.03.2000, 30.03.2000 and 11.07.2005 respectively. The writ petitioners are in collusion with the said Santhalingam and Ramalingam, who are accused in criminal complaint and the sale deed dated 20.03.2012 is a bogus document and the same is sought to be set aside in the civil suit.

9.Further, it is pertinent to note that a circular bearing No.67 dated 03.11.2011 has been issued by the respondent herein directing all the Deputy Inspector General of Registration to conduct an enquiry, if any complaint received relating to fraudulent registration through impersonation or production of false documents and initiation of enquiry by filing FIR and making of annulment of entries in Index-II and failure shall be viewed seriously and necessary disciplinary action will be initiated against the concerned District Registrar (Admin) and the registering officer. Aggrieved over the orders of the District Registrar the party can prefer an appeal before the Inspector General of Registration and sought for dismissal of the writ petition.

10.Heard the submissions of learned counsel appearing for the petitioner and the learned standing counsel who accepts notice on behalf of the respondents.

11.The main contention of the petitioner is that there is no provision under the criminal procedure code to authorise a police officer to issue letters giving directions to another authority stopping them from performing their statutory function. Therefore, the impugned order passed by the second respondent is liable to be quashed.

12.The third respondent opposed the said contention stating that the petitioners have no title over the property.

13.This Court is of the opinion that absolutely there is no provision to create encumbrance based on the letter sent by the second respondent/police department dated 14.02.2014 under any law and hence it is liable to be quashed. Accordingly, the impugned order dated 14.02.2014 is hereby quashed.

14.Insofar as the registration of the document is concerned, the third respondent has preferred a protest petition before the ***Sub-Registrar** in receipt No.2015128. The ***Sub-Registrar** shall conduct enquiry on the protest petition filed by the third respondent and pass appropriate orders, with regard to the registration of the document presented by the petitioners.

15.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

**Corrected as per the order
of this court dated 09.03.2016
and made herein.**

Sd/-
Assistant Registrar,
17.03.2016.

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Registrar
Sub Registrar Office
Ganapathi, Coimbatore.
2.The Inspector of Police,
Land Grabbing Cell
Coimbatore District.

To be substituted to the
order already despatched
on 08.03.2016 and made
herein.

+lcc to Mr.N. Anandvenkatesh, Advocate, S.R.No.10355
+lcc to Mr.C.R. Prasanan, Advocate, S.R.No.10265
+lcc to the Government Pleader, S.R.No.10192
+lcc to Mr.C.R. Prasanan, Advocate, S.R.No.15278 (14/6/16)

GR(CO)
EU(2/03/2016)
kra 17.03.2016

W.P.No.39637 of 2015.