

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.09.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.2242 of 2013

P.Sathyakumar

.. Petitioner

Vs.

1.The Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The District Registrar,
Registration Department,
Chengalpet.

3.K.V.Veeraraghavalu Naidu

4.K.V.Rathiskumar

... Respondents

Prayer: Petition filed seeking for a Writ of Mandamus, directing the second respondent to proceed with the enquiry, as per the hearing notice, bearing Na.Ka.No.3502/A1/2012, dated 4.10.2012, within the time stipulated by the Court.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.Jayaprakash Narayanan,
Spl.G.P for RR1 and 2
Mr.V.Pugalenthil for RR3 and 4

ORDER

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

2 This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the second respondent to proceed with the enquiry, based on the notice, dated 4.10.2012, within the time limit stipulated by this Court.

3 It had been stated by the petitioner that an extent of 1 acre and 52 cents, in S.No.291A/2B, Silavattam village, Maduranthakam Taluk, had been purchased by his brother, namely, Madankumar. The said Madankumar had settled the said lands, in favour of the petitioner, by way of a registered settlement deed, dated 7.12.2009, registered on the file of the Sub Registrar, Maduranthakam, bearing document No.5446/2009. Thereafter, the petitioner has been in possession and enjoyment of the said lands, till date. While so, the third respondent had registered a settlement deed, dated 13.11.2008, fraudulently, bearing document No.5964/2008, on the file of the office of the Sub Registrar, Maduranthakam, in favour of the fourth respondent. In such circumstances, the petitioner had made a complaint to the second respondent. Even though, a notice of enquiry, dated 4.10.2012, has been issued, the second respondent had not proceeded with the enquiry. Hence, the petitioner had preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

4 At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the respondents 1 and 2 had submitted a circular issued by the office of the Inspector General of Registration, Chennai, bearing Circular No.67, dated 3.11.2011, laying down certain procedures to deal with the complaints, relating to the fraudulent registrations, through impersonation or by production of false documents and evidences. This Court, by an order, dated 17.7.2014, made in a batch of writ petitions, in W.P.(MD)No.5908 of 2012, etc. batch, had upheld the circular No.67, dated 3.11.2011. He had placed a copy of the said decision, before this Court. Paragraph 13 of the said order reads as follows :

"13. In the light of the foregoing discussion, this Court does not find any illegality or flaw either in the impugned circular or the annulment orders respectively of the IGR and the District Registrars concerned. Consequently, W.P.(MD)Nos.5908, 3247, 15361, 8003, 13056, 13057, 13516, 13634, 10807, 13889 & 14022/12 & 331, 454, 1946, 1947, 3681, 3682, 9075, 16712, 17057, 3095/13, wherein the validity of the Circular and the annulment order is challenged, fail and they are dismissed as devoid of any merit, and W.P. (MD)Nos.2611, 3450, 3692, 10921, 12204 & 12894/12, 1627, 2027, 2028, 2181, 2811, 3578, 3651, 4101, 10415, 11280, 14835, 15488, 16606 & 17231/13 seeking inquiry based upon the Circular are ordered by making it clear that such inquiry shall have to be made only in terms of the provisions of the Act as well as the guidelines

issued in the Circular and that there should not be any deviation by delving into the issues relating to title. Connected Miscellaneous Petitions stand closed. Inasmuch as the only grievance of the petitioner in the Contempt Petition is that her appeal is not decided by the Registration Department despite the direction issued in the main writ petition concerned, the authorities are hereby directed to dispose of the same in accordance with law, within four weeks from the date of receipt of a copy of this order. With such direction, the contempt petition stands disposed of."

5 The learned counsel had further submitted that the writ appeals had been filed before this Court, challenging the said order. However, no interim order had been issued in the said writ appeals. While so, the Inspector General of Registration, Chennai, the first respondent herein, had issued a letter, in Letter No.6/IGR/2013, dated 30.1.2013. The said letter reads as follows :

"Your attention is brought to Circular 67 issued by this office on 03.11.2011 which is under court stay. In this regard I wish to state that as per section 83 of the Registration Act, the registering officer should launch criminal prosecution wherever an offence under this act is brought to his notice.

Section 83 of Registration Act reads as follows:

83: Registering officer may commence prosecutions:-

(1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Registrar or the Sub- Registrar, in whose territories, district or sub-district as the case may be, the offence has been committed.

In view of the above section, it is mandatory responsibility of the Sub Registrar/ District Registrar to launch a criminal prosecution for any offence reported to have been committed under this Act.

In order to ascertain as to whether an offence has been committed under this Act, the officer should conduct an enquiry and follow the stipulations prescribed under rule 183 of the Registration Rules.

Hence, I request you to continue conducting enquiry in all complaints received by you which indicate any offence under Registration Act including fraudulent registration and after the enquiry if the fraud is proved, you are requested to launch criminal prosecution immediately and keep pending the issue of annulment of the documentation regarding which will be taken after the outcome of the pending court case.

Monthly, periodical report in this regard as prescribed should be submitted on regular basis and enquiry should be conducted then and there without any letup."

6 In such circumstances, taking into consideration the order passed by the learned Single Judge of this Court, dated 17.7.2014, in W.P.(MD)No.5908 of 2012, etc. batch and a letter issued by the Inspector General of Registration, Chennai, the first respondent herein, dated 30.1.2013, the second respondent is directed to conduct an enquiry, relating to the allegations made by the petitioner, in his representation, dated 20.7.2012, by issuing fresh notices to the petitioner, the third and the fourth respondents and the other persons concerned, if any, and to take appropriate action, as per the letter issued by the first respondent, in his letter No.6/IGR/2013, dated 30.1.2013, as expeditiously as possible. The petitioner shall furnish a copy of the representation, dated 20.7.2012, to the second respondent, along with a copy of this order. This writ petition stands disposed of, with the above directions. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The District Registrar,
Registration Department,
Chengalpet.

+1cc to Mr.V.Raghupathi, Advocate Sr.53976

+1cc to Mr.S.Muthukumar, Advocate Sr.53526

+1cc to the Government Pleader sr.54463

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