

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.36073/2016

A.Govindan

.. Petitioner

Vs.

1.The Inspector General of Registration
No.100, Santhome High Road,
Chennai 600 028.

2.The District Registrar, [Administration]
South Chennai, Saidapet,
Chennai 600 015.

3.The Sub Registrar
O/o.The Sub Registrar,
Velacherry, Chennai-42.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records pertaining to the order No.93/2015 dated 17.05.2016 passed by the 3rd respondent and quash the same as illegal and arbitrary and consequently direct the respondents 1 to 3 to annul/cancel the entries of the documents dated 27.02.2014 efface/the entries pertaining to the documents namely power of attorney dated 26.02.2014 registered as documents No.1320/2014 and sale deed dated 27.02.2014 registered as document No.1337/2014 on the file of the 3rd respondent in Appendix-II.

For Petitioner : Mr.S.Sethuraman

For RR 1 to 3 : Mr.R.A.S.Senthilvel, AGP

ORDER

Heard the learned counsel for the petitioner and Mr.R.A.S.Senthilvel, learned Additional Government Pleader accepting notice on behalf of the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner would state that he is a retired Central Government Staff from Central Public Works Department and during his service, in the year 1978, he had purchased a plot bearing No.43 situate at VGP Selva Nagar, Velacherry, Chennai - 42 and a Sale Deed dated 15.06.1978 bearing Document No.839/1978 was also executed in

favour of the petitioner herein by the vendor, M/s.VGP Housing Pvt Ltd. During the year 2014, when the petitioner was intending to construct a house, he came to know from the neighbouring plot owners that his land has been leveled and cleaned by some third party. When the petitioner went to the property, he found that one Sridhar Paul has engaged his workmen to level and clean the land. It is the further submission of the petitioner that a fraudulent Power of Attorney has been created in the name of one Veeraragavan and he in turn, had created a forged sale deed bearing No.1337/2014 dated 27.02.2014 in favour of Sridhar Paul and the said Deed has been registered on the file of the office of the Sub Registrar, Velachery. Hence, the petitioner lodged a police complaint and filed Crl.OP.No.3496/2015 seeking for a direction to transfer the complaint to Central Crime Branch, subsequent to which, FIR was registered against the said Veeraragavan and others.

3 The petitioner would further state that he had filed WP.No.18382/2015 before this Court seeking for a direction upon the respondents herein to cancel the Power of Attorney dated 26.02.2014 and the Sale Deed dated 27.02.2014 in the light of the Circular No.67, dated 03.11.2011 and this Court, vide order dated 25.06.2015, directed the respondents to consider and pass appropriate orders after issuing notice to all concerned and after conducting an enquiry in the matter. Pursuant to the same, the 2nd respondent, after holding enquiry, held that the said documents are fabricated ones and directed the 3rd respondent herein to take action as per section 83 of the Registration Act through police. As per the Circular No.67, the Sub Registrar is having power to cancel/annul the entries made in the Appendix-II. But, the 3rd respondent herein did not delete the entries. Hence, once again the petitioner knocked the doors of this Court by filing WP.No.1212/2016 seeking direction to the 3rd respondent to delete the entries and this Court, vide order dated 15.02.2016, directed the 3rd respondent to consider the petitioner's representation dated 03.11.2015. Despite the order of this Court, the 3rd respondent is yet to delete/cancel the entries in respect of the said documents and vide impugned order dated 17.05.2016, the 3rd respondent declined to delete the entire on the ground that this Court, in MP.No.1/2012 in WP.No.26019/2012 vide order dated 26.09.2012 has granted an order of interim stay in respect of the said Circular No.67 dated 03.11.2011 and that the Inspector General of Registration has not passed any orders to cancel the fraudulent transactions and that he had directed the authorities concerned to initiate criminal prosecution against the persons concerned, if any fraudulent transaction is proved. Aggrieved by the said order, the petitioner is before this Court with this writ petition.

4 The learned counsel for the petitioner would submit that the Madurai Bench of this Court in WP [MD] No.4464/2016 dated 11.04.2016, has relied upon the order dated 17.07.2014 made in WP [MD] No.5908/2012 and etc., batch and held that there is no prohibition for the authority concerned to dispose of the matter on merits and accordingly, remitted the matter back to the 2nd respondent

5 The learned Additional Government Pleader on instructions would submit that an appeal has been preferred before the Hon'ble Apex Court, wherein the initiation of the criminal prosecution alone has been stayed.

6 Be that as it may, the impugned order has been passed by the 3rd respondent mainly on the ground that the interim stay of Circular No.67, dated 03.11.2011, granted by this Court, is still in force and that the Inspector of Registration has not passed any order in respect of deletion/cancellation of the entries made in Appendix - II. But the Madurai Bench of this Court, in the order dated 11.04.2016 made in WP [MD] No.4464/2016 [M/s.Vardan Foods Private Limited and another Vs. the Inspector General of Registration, Registration Department, Chennai-28 and others], has held that the authority concerned is not prevented from considering the matter on merits despite the existence of the interim stay and remitted the matter back the authority concerned for fresh consideration and disposal.

7 Accordingly, the impugned order of the 3rd respondent dated 17.05.2016 made in Order No.93/2015 is hereby set aside and the matter is remitted back to the 3rd respondent once again for fresh consideration and disposal. The 3rd respondent is directed to dispose of the petitioner's representations/letters dated 06.06.2016, 22.06.2016 and 26.07.2016 respectively on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order, after taking note of the order passed by this Court in WP [MD] No.4464/2016 dated 11.04.2016 and communicate the decision taken, to the petitioner herein.

8 The writ petition is disposed of with the above direction. No costs.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

AP

To

1.The Inspector General of Registration
No.100, Santhome High Road,
Chennai 600 028.

<https://hcservices.ecourts.gov.in/hcservices/>

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3.The Sub Registrar
O/o.The Sub Registrar,
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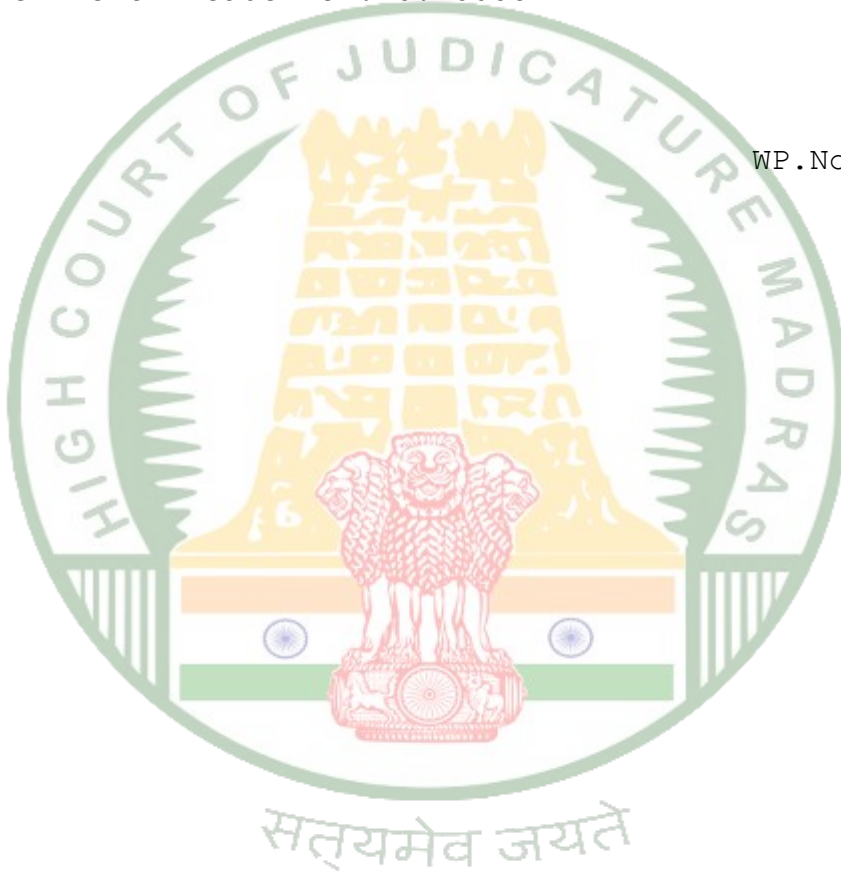
+1 cc to MR.S.SETHURAMAN Advocate SR.NO. 58459

+1 cc to Government Pleader SR.NO. 58532

gj[col]

RD 07/11/2016

WP.No.36073/2016



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