

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5685 of 2016

and WMP.No.5028 of 2016

S.Babu .. Petitioner

Vs.

1.The District Registrar (Administration),
Office of the District Registrar,
Chengalpet.

2.M.Sundaram

3.S.Rajendiran .. Respondents
(R2 and R3 impleaded as per
the order dated 11.07.2016
made in WMP.No.5818 of 2016)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the respondent vide his proceedings in Na.Ka.No.242/A3/2016 dated 01.02.2016 and to quash the same and direct the respondent to conduct fresh enquiry as per Circular No.67 issued by the IG of Registration vide his Circular dated 03.11.2011 and in accordance with law after affording opportunity to both the parties.

For Petitioner : Mr.S.Sundaresan

For Respondent :Mr.R.Govindasamy
Special Govt. Pleader for R1

For Respondents 2&3 : No Appearance

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that his father Thiru.M.Sundaram, newly impleaded second respondent herein had executed a registered settlement deed dated 28.08.2001 in Doc.No.1956 of 2001 in respect of lands admeasuring to an extent of 45 cents out of 55 cents in S.No.211/2C and 1/3rd right in the well as well pump-set and electricity service

connection in respect of the land in S.No.211/2D and subsequently, he cancelled the same vide Doc.No.2258/2002 and thereafter executed settlement deed in favour of the petitioner's brother, namely the third respondent, vide registered Doc.No.6869/2012. The petitioner, alleging illegality, forgery and fabrication has given a complaint to the first respondent praying for appropriate action and since it has not been considered, the petitioner filed W.P.No.20628/2015 and this Court, vide order dated 27.11.2015, has directed the District Registrar, Chengalpattu/first respondent herein to consider the scope and applicability of the suit filed at the instance of the petitioner with respect to the maintainability of the complaint and entitlement in getting the relief on merits and accordingly, the first respondent has considered the same and vide impugned proceedings dated 01.02.2016 has found that there was no fabrication/impersonation and rejected the complaint/representation submitted by the petitioner and challenging the legality of the same, the petitioner has come forward with this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to Circular No.67 (C.No.52338/C1/2011) dated 03.11.2011 issued by the Inspector General of Registration and would submit that admittedly the second respondent while rejecting the complaint of the petitioner has failed to follow the prescribed procedure and on the sole ground, the impugned proceedings warrants interference.

4. Per contra, Mr.R.Govindasamy, learned Special Government Pleader appearing on behalf of the first respondent, on instructions, would submit that the first respondent, after due and proper application of mind, has rightly rejected the application submitted by the petitioner and prays for dismissal of this writ petition.

5. Though the respondents 2 and 3/ newly impleaded respondents were served, vide order dated 23.02.2016 and their names appear in the cause list, there is no representation for them.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. It is relevant to extract the following portion of Circular No.67 (C.No.52338/C1/2011) dated 03.11.2011 issued by the Inspector General of Registration:

"(a) All such complaints of fraudulent registration received by the department have to be forwarded to the respective District Registrar (Admin) who shall register the same in a register of complaints relating to fraudulent registration in the following format.

Sl.No	Date	Name and address of the applicant	Document No. and SR office name	Name and address of the executants, claimants and witnesses

(b) After entering the complaint, he shall issue notices to the executants of the document and witnesses to appear for enquiry along with the complainant and he should also take witness of the registering officer and if needed, call for the records from the revenue department and also summon the respective Village Administration Officer (VAO) to appear before him with the village accounts.

(c) Once the enquiry is completed following summary procedure and it is proved that the registration has taken place through impersonation and through production of false documents and statements/admissions, he shall pass orders to this effect, recording his findings and issue direction to the concerned registering officers to file FIR against the concerned persons and also to make a note in the Index-II of the document which was fraudulently registered to the effect that the "registration is annulled as per the proceedings of the District Registrar (proceeding no. to be noted) and it shall have same effect as prescribed under Section 49 of the Registration Act".

(d) After receiving the order of the District Registrar, the registering office shall immediately file FIR and make entries as started above in Index-II without any loss of time. The registering officer shall maintain a separate register in this regard in his office to register all such orders of the District Registrar in following format.

Sl.No.	Date of receipt of order of DR	Proceeding No.	Doc. No. of the Document to be annulled	Date of filing FIR	Date of making note in Index-II	Signature of the registering officer

(e) The District Registrar should complete the enquiry maximum in two months in each case and if the parties are not appearing for more than 2 summons, ex-parte order should be passed based upon the documents, evidences and witnesses available. While issuing summons, mode of RPAD should be adopted."

8. Admittedly the first respondent, while entertaining the complaint, should have served notice to the private respondents and adjudicated the allegations of the complaint, but it has failed to do so. In the considered opinion of the Court, mode of such disposal is not in consonance with the guidelines prescribed in the above said circular and hence on the sole ground, the impugned order warrants interference.

9. In the result, this Writ Petition is partly allowed and the proceedings of the first respondent in Na.Ka.No.242/A3/2016 dated 01.02.2016 is set aside and the matter is remanded to the first respondent, who shall issue notice to the respondents 2 and 3 and thereafter decide the issue strictly in accordance with Circular No.67 (C.No.52338/C1/2011) dated 03.11.2011 issued by the Inspector General of Registration and give disposal as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as private respondents 2 and 3. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

To

The District Registrar (Administration),
Office of the District Registrar,
Chengalpet.

+1cc to Mr.S. Sundaresan, Advocate, S.R.No.38421
+1cc to the Government Pleader, S.R.No.38524

NM(CO)
EU(03/08/2016

W.P.No.5685 of 2016



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