

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.5695 of 2016

R.Sivakumar

... Petitioner

Vs.

1.The Inspector General of Registration,  
100, Santhome High Road,  
Chennai-28.

2.The District Registrar,  
(Administration),  
No.9, Jenis Road,  
South Chennai, Saidapet,  
Chennai-15.

3.The Sub Registrar,  
Pammal SRO Office,  
Chennai-44.

4.R.Udayakumar

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to dispose of the petitioner's appeal petition dated 30.12.2015 made in Ir.No.57694/U1/2015 dated 4.1.2016 on merits within the time frame fixed by this Court.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Karthikeyan,  
Govt. Advocate,  
for R.1 to R.3

ORDER

The petitioner has come up with the present writ petition for the issuance of writ of mandamus, directing the first respondent to dispose of his appeal petition dated

30.12.2015 made in Lr.No.57694/U1/2015 dated 4.1.2016 on merits within the time frame fixed by this Court.

2. It is the case of the petitioner that he is a practising Advocate. His father had ancestral properties in their village and the income from the joint family nucleus had been utilised to purchase vast extent of lands in different survey fields. On 20.2.1976, the petitioner's father and his four sons had entered into a family partition which was registered as document No.529 of 1976, whereunder, the properties had been allotted to his father and his four sons. After partition, his father purchased various other properties in his name as well as in the name of his wife and four sons. During the year 1994, the petitioner's parents had executed a joint Will dated 16.9.1994 registered as document No.126/Bk.3/1994 in favour of their sons and daughter by bequeathing the properties situated at No.71, Thandalam Village and No.72, Tharapakkam Village. After the execution of the said Will, the petitioner's father purchased 39 cents of land in S.F.Nos.247/2, 4A, 5 and 7 under a sale deed dated 19.4.2000. The petitioner's father died on 19.11.2000 and mother died on 23.1.2000. However, his father had not made any arrangement in respect of 39 cents of land purchased under the sale deed dated 19.4.2000. Thereafter, the petitioner came to know that his brothers and sister had fraudulently created a release deed dated 26.5.2004 in favour of the fourth respondent. In the said release deed, the petitioner's name has not been shown as one of the legal heirs of his parents, besides, they have created the said release deed in respect of the petitioner's exclusive property measuring to an extent of 13 cents in S.No.247/7. Immediately, the petitioner reported the matter to the respondents 1 to 3 on 18.5.2015. The first respondent has forwarded his complaint to the second respondent for enquiry and to take necessary action. On the said complaint, the second respondent has passed an order dated 1.10.2015, even without considering the scope of Sections 81 to 83 of the Registration Act. After receipt of the order copy on 21.12.2015, the petitioner filed an appeal dated 30.12.2015 before the first respondent. The first respondent has sent a communication dated 4.1.2016 stating that the Circular No.67 dated 3.11.2011 has been stayed by this Court. The said Circular will not have any impact for the disposal of his appeal dated 30.12.2015 since it relates to the document fraudulently registered on 26.5.2004. Further, if the stay of the Circular is applicable to the case on hand, the second respondent ought not to have passed the order dated 1.10.2015. However, the first respondent has not considered the legal impact of the stay order relating to the Circular in a proper perspective. Therefore, the petitioner has come up with the present writ petition for a mandamus directing the first respondent to dispose of his appeal petition dated 30.12.2015

made in Lr.No.57694/U1/2015 dated 4.1.2016 on merits within the time frame fixed by this Court.

3. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents 1 to 3.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim made by the petitioner, this Court directs the first respondent to expedite the proceedings of the appeal petition dated 30.12.2015 made in Lr.No.57694/U1/2015 dated 4.1.2016 pending before him, by giving notice to the fourth respondent and dispose of the same, on merits and in accordance with law. The entire exercise has to be carried out within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

sbi

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Inspector General of Registration,  
100, Santhome High Road, Chennai-28.
- 2.The District Registrar, (Administration),  
No.9, Jenis Road,  
South Chennai, Saidapet, Chennai-15.
- 3.The Sub Registrar, Pammal SRO Office,  
Chennai-44.

+ 1 cc to Mr.N.Manokaran, Advocate Sr 9987

+ 1 cc to The Govt.Pleader, Sr 9954

KR/4/3/16

W.P.No.5695 of 2016