

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5825 of 2016

N.Sarasu

... Petitioner

Vs.

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

2.The District Registrar,
Office of the District Registrar,
(Administration),
Chamber No.3, Salem West,
Salem District.

3.The Sub-Registrar,
Office of Sub-Registrar,
Omalur, Salem District.

4.Kaliappan

5.Eswaran

6.Udayasuriyan

7.Davamani

सत्यमेव जयते... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 27.01.2016 to conduct proper investigation and to cancel the fraudulent transactions in accordance with the Circular No.67, dated 03.11.2011 issued by the 1st respondent.

For Petitioner : Mr.A.Nagarathinam

For respondents : Mr.S.Pattabiraman, (For R1 to R3)
Government Advocate,

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 27.01.2016 to conduct proper investigation and to cancel the fraudulent transactions in accordance with the Circular No.67, dated 03.11.2011 issued by the 1st respondent.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The petitioner's father-in-law namely Mr.Kaveri Gounder had purchased properties situated in S.No.88/2 measuring about 1.28.50 hectares (3.17 acres), S.No.89/1A measuring about 1.14.50 hectares (2.83 acres) and S.No.89/1B measuring about 0.16.00 hectares (40 cents) of agricultural lands, situated at Nadupatti, Omalur Taluk, Salem District by a registered sale deed bearing Doc.No.240 of 1950 dated 04.02.1950 from Velayuda Udaiyar and others and he had been in peaceful possession and enjoyment of the said property. The said Kaveri Gounder obtained patta bearing No.555 in his name and paid kist for the said land regularly. The said Kaveri Gounder died intestate leaving behind his sons namely Arumugam and Nagappan (petitioner's husband) as his legal heirs. After the demise of the said Kaveri Gounder, the said Arumugam and Nagappa and his daughters have been in possession and enjoyment of the said property. The petitioner's husband Nagappan died on 13.03.1994 intestate leaving behind the petitioner as his only legal heir.

2-2.While so, during the resurvey of the lands under UDR Scheme, the Tahsildar of Omalur Taluk wrongly issued the joint patta in favour of the said Arumugam and Nagappan along with one Periyanna Gounder, who is the brother of the said Kaveri Gounder. Even though the said Periyanna Gounder had no right over the said property, the said Periyanna Gounder executed a Settlement Deed bearing Doc.No.1244 of 1997, dated 05.05.1997, fraudulently in favour of his sons namely Kaliappan, Eswaran, Udayasuriyan and his daughter namely Davamani and on production of false documents, the Sub-Registrar of Omalur registered the same without verifying the title of the said property.

2-3.In the meantime, a civil suit in O.S.No.1031 of 1996 on the file of District Munsif-cum-Judicial Magistrate, Omalur, was filed by the said Arumugam, Sarasu (petitioner herein), Alamelu and Nagammal, seeking for declaration of the title of the said property and for permanent injunction against the said Periyanna Gounder. The learned District Munsif passed a decree and judgment dated 22.12.2000 in the said suit, declaring that the plaintiffs are the owner of the

suit property, but rejected the relief of permanent Injunction against the said Periyanna Gounder. Aggrieved by the same, an appeal suit was filed in A.S.No.3 of 2004 on the file of the Subordinate Court, Mettur by the petitioner and others and the said appeal was dismissed on 13.10.2004. Thereafter, a suit in O.S.No.101 of 2005 filed by the petitioner and others seeking for possession of the said property and the same is pending on the file of the District Munsif Court, Omalur.

2-4.It is further stated by the petitioner that the 1st respondent has issued a Circular No.67, dated 03.11.2011, prescribing some mandatory procedure to deal with the complaints relating to the fraudulent registrations. By the said Circular, the District Registers were directed to hold enquiry on the complaints and to pass orders to file FIR. Therefore, the petitioner made a representation dated 27.01.2005 to the respondents to conduct proper enquiry and pass order to cancel the fraudulent settlement deed. Since the petitioner's representation was not considered by the respondents, the present writ petition has been filed by the petitioner.

3.Heard both sides and perused the materials available on record.

4.Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioner, this Court directs the 2nd respondent to consider the representation dated 27.01.2016 given by the petitioner, as per the Circular No.67, dated 03.11.2011, issued by the Inspector General of Registration, and pass appropriate orders, after affording opportunity of personal hearing to the petitioner as well as to all other necessary parties, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

[ssv]

To

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

2.The District Registrar,
Office of the District Registrar,
(Administration),
Chamber No.3, Salem West,
Salem District.

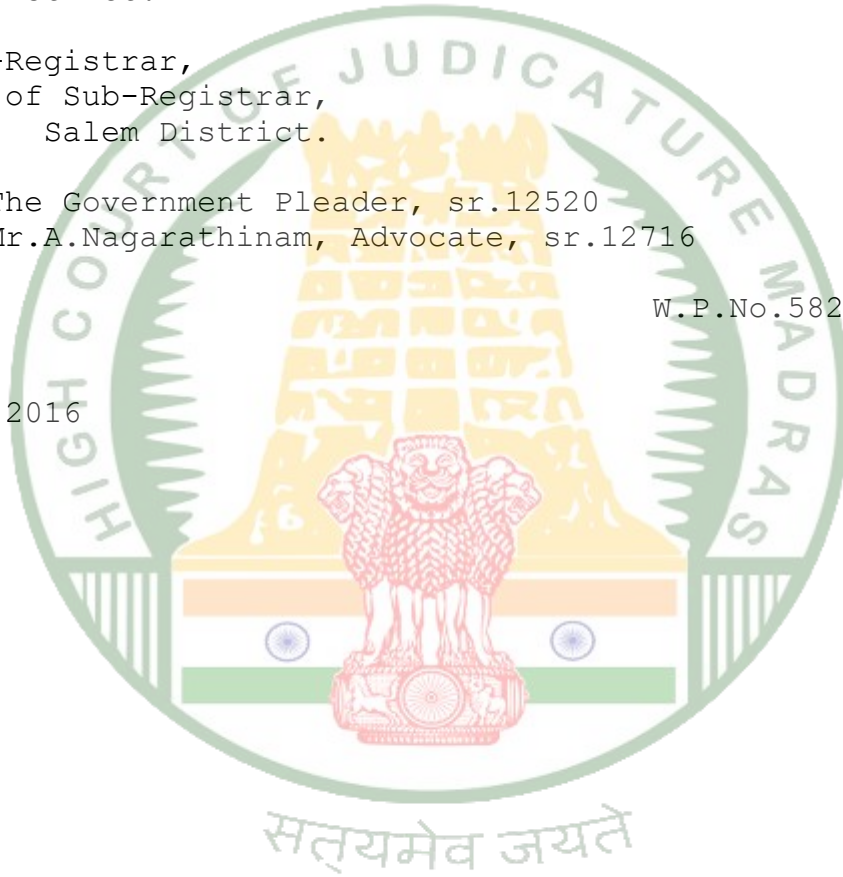
3.The Sub-Registrar,
Office of Sub-Registrar,
Omalur, Salem District.

+1 cc to The Government Pleader, sr.12520

+1 cc to Mr.A.Nagarathinam, Advocate, sr.12716

W.P.No.5825 of 2016

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