



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.12281 of 2015
and M.P(MD)Nos.1 & 2 of 2015
and W.M.P(MD)No.6136 of 2016

S.Suresh Kumar

... Petitioner

Vs.

1.The Registrar of Firms and
District Registrar,
Registration Department,
Madurai Road, Virudhunagar Town,
Virudhunagar District.

2.Arun Kumar

3.Sridevi

4.A.Hari Ganesh

5.D.Sritharan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the Form-V, dated 03.09.2014 given by the second respondent and consequently recording the notice of change in Register of Firms in Form-A by the Registrar of Firms and District Registrar, Registration Department, Virudhunagar District, Virudhunagar, the first respondent herein and quash the same.

For Petitioner : Mr.A.V.Arun
For R - 1 : Mr.N.S.Karthikeyan
Additional Government Pleader

For RR 2 & 3 : Mr.M.Ajmal Khan
Senior Counsel
for Mr.A.Haja Mohideen
Government Advocate

**ORDER**

The Writ Petition challenging an acceptance of Form-V filed by the respondents 2 and 3 and consequently, to direct the Registrar of Firms-the first respondent, to change the Register of Firm in Form A.

2. According to the petitioner, the petitioner is a partner in a partnership firm namely Vimal Fireworks Factory, Sivakasi and the same was also registered under the provisions of Indian Partnership Act, 1932 as Firm No.225 of 1989. Subsequently, on 17.10.2013, Firm was reconstituted and the petitioner, the petitioner's wife and second respondent were included in the partnership firm. Thereafter, the second respondent in collusion with others created bogus documents as if a release deed was executed by the petitioner and his wife in September, 2014. The petitioner's signature and his wife's signature were forged by the second respondent and third respondent, who is none other than the wife of the second respondent. Based on the above forged documents, they have created a new partnership firm and submitted Form-V before the first respondent on 03.09.2014 and the first respondent also admitted the above Form-V and made entries in the Register. The petitioner after coming to know about the forgeries committed by the respondents 2 and 3, filed a objection petition before the first respondent on 13.07.2015. But the first respondent, without considering the above objection, admitted the Form-V filed by the respondents 2 and 3. Subsequently, several criminal cases were filed against the respondents 2 and 3 and also filed a civil suit, hence, the petitioner has filed this Writ Petition challenging the Form-V submitted by the respondents 2 and 3.

3. The second and third respondents filed a counter-affidavit disputing of the fact that there is no forgery committed by them. The petitioner and his wife voluntarily executed release deeds and based on the release deeds, the partnership firm was reconstituted, which was submitted before the first respondent. At the time of submitting Form-V, the petitioner has not raised any objection before the first respondent. The first respondent accepted Form-V and reconstituted the Firm, apart from that, the Registrar has no power to alter the entries after registering the same. Under Section 65 of the Registration Act, the Registrar can correct the entries only based on the orders passed by a competent Court. In the absence of any such orders, the Registrar cannot alter Form-V.

4. The learned counsel appearing for the petitioner submitted that as per Rule 7 of the Madras Partnership (Regulation of Firms) Rules, 1951, the Registrar can make entries recording the protest of the petitioner in remarks column. He would further submit that though he has sought for larger



relief, he restrict the prayer seeking for a direction to the Registrar to record his protest as per Rule 7 of the Madras Partnership (Registration of Firms) Rules, 1951, in the Register maintained by them and the learned counsel for the respondents 2 and 3 has also not objected for the same.

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5. In view of the above contention, the first respondent is directed to consider the objection filed by the petitioner and make a reference in remarks column as per Rule 7 of the Madras Partnership (Registration of Firms) Rules, 1951, in respect of the above firm and also issue a copy of the same to the petitioner.

6. With the above observation, this Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

ps

To

The Registrar of Firms and
District Registrar,
Registration Department,
Madurai Road, Virudhunagar Town,
Virudhunagar District.

+1cc to Mr. A.V. Arun Advocate Sr.No. 69724
+1cc to Mr. Haja Mohideen Advocate Sr.No. 69628
+1cc to Mr. D. Ganesan Advocate Sr.No. 70449
+1cc to Spl. Government Pleader Sr.No. 69788

JAM/16.12.16/SKS-RR/SAR I/ 3P-6C

W.P (MD) No.12281 of 2015

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