



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.07.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.13159 of 2016

D.Gandhimathi

... Petitioner

Vs

1. The District Registrar,
District Registration Office,
No.171, Mahal Road,
Madurai South,
Madurai.

2. The Sub Registrar,
Sub Registrar Office,
Cholavandhan,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to conduct an enquiry based on the petitioner's representation, dated 29.04.2016 to act upon the Circular No.67, dated 03.11.2011 issued by Inspector General of Registration, in accordance with law within the time to be stipulated by this Court.

For Petitioner : Mr.J.John
For Respondents : Mr.V.Muruganandam,
Addl.Govt.Pleader.

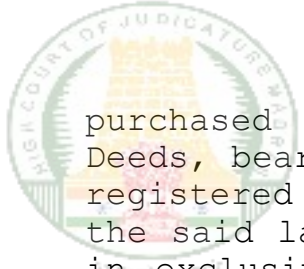
ORDER

Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final hearing.

3. No counter is filed on behalf of the Respondents.

4. According to the Petitioner, she is the owner of the property in R.S.No.161/9, measuring an extent of 59 cents in R.S.No.160/9, in an extent of 26 cents and Re.S.No.160/4, measuring an extent of 33 cents in Sithalangudi Village, T.Vadipatti Taluk, Madurai District. As a matter of fact, the said properties were



purchased by her in the year 1990, by means of registered Sale Deeds, bearing Nos.1745 of 1990 and 1336 of 1996. Based on the said registered Sale Deeds, patta was transferred in her name. Indeed, the said lands are classified as agricultural lands and that she is in exclusive possession and enjoyment of the said properties till today.

5. According to the Petitioner, on 23.05.2006, her husband Durairaj died, while he was in service leaving behind him, herself, his minor daughter Murugeswari, as his legal heirs. She had handed over all her properties, title deeds and her husband's death benefit of Rs.4,00,000/- and 34 sovereigns to her sister Alagammal only for safe custody of herself and her daughter Murugeswari, who is living in a rental house at Palanganatham. Further, on 08.02.2016, his sister's daughter Muthmari and Anandhaeswari came to her house and threatened and compelled her and took her signatures in blank papers at her house, while she was alone. She informed about this to her daughter, while she returned from the College. Thereafter, her daughter called the said persons over phone and enquired about the subject matter in issue and they had no response to her daughter's enquiry.

6. The grievance of the Petitioner is that her daughter had obtained an Encumbrance Certificate through internet and she found that on 21.01.2013, the accused had impersonated her and created a General Power of Attorney Deed in respect of her properties in favour of Anandhaeswari. Based on the said Power of Attorney Document, the said accused Anandhaeswari had executed a Sale Deed, in favour of her sister's Muthumari sons namely Raj Abishek, Koshek and Sale Deed was registered on 19.02.2016, in respect of her properties viz., Re.S.Nos.161/9, 160/9, 160/4 and one Doctor F.Celin had issued a life certificate in her name for the purpose of registering the Sale Deed. She came to know about the said facts only during the First week of April, 2016 for the first time. Soon she lodged the complaint before the First Respondent, through registered post on 29.04.2016, seeking to annul the Power of Attorney Document, dated 30.01.2014 (Document No.3/2014) and 19.02.2016 Sale Deed, bearing Document No.337 of 2016.

7. The principal stand taken on behalf of the Petitioner is that she never executed any Power of Attorney Deed, in favour of one Anandhaeswari daughter of Alagammal and in fact, the said Anandhaeswari is none other than her sister's daughter. Further, she and her sister Muthumari and her sister Alagammal are all eyeing on her properties and they want to grab her properties and gold jewels. Moreover, by taking advantage of her poverty, age they had presented the General Power of Attorney by impersonation and gave a false declaration before the Second Respondent / Sub Registrar, Sub Registrar Office, Cholavandhan, Madurai District, and registered the document in question.

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

8. In fact, the First Respondent / District Registrar, Madurai



South, Madurai, on 04.05.2016 had sought for copy of the said forged power deed No.3 of 2014 and the Sale Deed. After receiving the First Respondent's Letter, she submitted all the documents on 27.06.2016 through registered post.

9. In fact, the First Respondent had received her representation on 29.04.2016 and he should have conducted an enquiry, based on the Circular No.67, issued by the Inspector General of Registration, dated 03.11.2011. In identical circumstances, this Court had decided the issue concerning the Circular No.67 in the decision in **A.Nazar v. Inspector General of Registration, Chennai** reported in (2012 (5) MLJ 487).

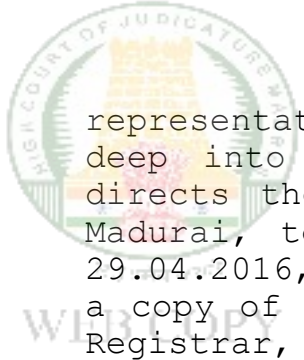
10. At this stage, the Learned Counsel for the Petitioner strenuously contend that the Respondents are bound to perform their public statutory duty to conduct an enquiry based on the Circular No.67, dated 03.11.2011, issued by the Inspector General of Registration, Chennai. Since the Respondents had failed to perform their public statutory duty to act on her representation, dated 29.04.2016, in the meantime, on 18.04.2016, she made a complaint to the District Superintendent of Police, Madurai.

11. In this connection, the Learned Counsel for the Petitioner seeks in aid of the decision of this Court in **A.Nazar v. Inspector General of Registration, Chennai and Ors** reported in (2012 (5) MLJ 487), at special page 488 whereby and whereunder it is held as follows:-

"The concerned Registrar has to act in terms of the relevant provisions of the Act as well as periodical circulars issued by the concerned higher authorities of Registration Department from time to time and the circulars are meant to be followed in true letter and spirit."

12. It is to be noted that the First Respondent / District Registrar, Madurai South, Madurai in proceedings bearing No. O.Mu.No.3233/Aa2/2015, dated 04.05.2015, had addressed a communication to the Petitioner, requiring her to furnish certain documents like patta, chitta / details and in fact, the Petitioner had caused a reply, dated 27.06.2016, by enclosing Five documents (more specifically mentioned in her reply).

13. Considering the fact that the Petitioner is seeking a relief from this Court for passing of an order by directing the First Respondent / District Registrar, Madurai South, Madurai, to conduct an enquiry, based on her representation, dated 29.04.2016, to act upon the Circular No.67, dated 03.11.2011, issued by the Inspector General of Registration, Chennai, in accordance with law, within the time to be determined by this Court, at this stage, this Court, without traversing upon the merits and contents of the



representation of the Petitioner, dated 29.04.2016 and not delving deep into the same, in the interest of justice and fair play, directs the First Respondent / District Registrar, Madurai South, Madurai, to look into the representation of the Petitioner, dated 29.04.2016, within a period of one week from the date of receipt of a copy of this order. Thereafter, the First Respondent / District Registrar, Madurai South, Madurai, is to pass necessary reasoned speaking order, on merits, in a fair, free, and dispassionate manner (of course after providing necessary opportunity to the Petitioner and others concerned by adhering to the principles of natural justice) within a period of four weeks thereafter.

14. The Petitioner is also directed to lend her assistance and co-operation to the First Respondent / District Registrar, Madurai South, Madurai, so as to enable him to dispose of her representation, dated 29.04.2016, within the time determined by this Court, as stated supra.

15. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Registrar,
District Registration Office,
No.171, Mahal Road,
Madurai South,
Madurai.

2. The Sub Registrar,
Sub Registrar Office,
Cholavandhan,
Madurai District.

+ 1 CC TO M/S.J.JOHN, ADVOCATE IN SR No. 39789
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 40079

MPK
TE/SK-SKN/ : 05/08/2016 : 4P/5C

W.P (MD) No.13159 of 2016
27.07.2016