



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Writ Petition (MD) Nos.19092 and 19093 of 2016

and

W.M.P. (MD) Nos.13792 to 13794 of 2016

S.P.Nachiappan

... Petitioner in both W.Ps

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome High Road,
Chennai 600 028.

2.The District Registrar (Administration),
Karaikudi.

3.The Joint Sub Registrar - II,
Karaikudi.

4.Muthukumar @ Muthukaruppan

... Respondents in both W.Ps

Prayer in W.P(MD)No.19092 of 2016: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari filed Mandamus, calling for the entire records relating to the proceedings of the 1st respondent made in letter No.38748/U4/2016, dated 01.09.2016 and quash the same and consequently, direct the 1st respondent to dispose of the statutory appeal dated 08.08.2016 filed by the petitioner in Appeal No.U4/37240/2016, on 17.08.2016 on the stay application filed therein pending the above appeal on merits and in accordance with law within such time as may be prescribed by this Court.

Prayer in W.P(MD)No.19093 of 2016: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the endorsement made by the 3rd respondent in the guideline value register bearing maintained by him and pertaining to S.Nos.93/2 and 93/4, Managiri Sukkanendal Village, Karaikudi Taluk and Sivagangai District banning the registration of documents by wrongly interpreting the proceedings of the District Registrar (Administration), Karaikudi in Na.Ka.No.1009/B1/2012, dated 11.07.2016 and quash the same.

For Petitioner : Mr.Karthick, Senior Counsel
for Mr.P.Adhimoolapandian

For Respondents 1-3 : Mr.N.S.Karthikeyan,
Additional Government Pleader

For 4th Respondent : No appearance

**COMMON ORDER**

Challenging the order passed by the Inspector General of Registration, Chennai, the first respondent herein, dated 01.09.2016 refusing to consider the appeal dated 08.08.2016 filed by the petitioner, W.P(MD)No.19092 of 2016 has been filed.

2.Subsequently, based on the order passed by the District Registrar dated 11.07.2016, the second respondent herein, the Joint Sub Registrar, the third respondent herein made an endorsement banning registration in respect of the property in question. Challenging the said endorsement made by the Joint Registrar, W.P(MD)No.19093 of 2016 has been filed.

3.Heard Mr.Karthick, learned Senior Counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 to 3.

4.According to the petitioner, he has purchased the property in question from one Parthiban, a power of attorney of one Meenal and other legal heirs of Poosalan on 06.07.2004 and the same was registered in Document No.2455 of 2004 on the file of the Joint Sub Registrar, Karaikudi. Subsequently, based on the complaint given by the fourth respondent alleging that the above documents have been registered by giving false statements and information and to cancel the above sale deed, an enquiry was conducted by the second respondent. Thereafter, the second respondent, by an order dated 11.07.2016 has held that the above document is not valid, based on the circular issued by the first respondent in Circular No.67, dated 03.11.2011 but the second respondent withheld the above decision on the ground that the above circular has been stayed by this Court. However, the second respondent directed the third respondent to file a complaint against the petitioner under Section 83 of the Registration Act, 1908. Challenging the above said order the petitioner filed an appeal before the first respondent. The first respondent after receipt of the said appeal, passed an order on 01.09.2016 stating that since the above circular is stayed by this Court, until the stay is vacated, the appeal filed by the petitioner cannot be considered.

5.Relying upon the order passed by this Court in W.P.No.10169 of 2016, dated 04.04.2016, learned Senior counsel appearing for the petitioner submitted that the Circular No.67, dated 03.11.2011 issued by the first respondent has already been upheld by this Court and there is no order of interim stay in the writ appeal. In the above circumstances, the first respondent cannot refuse to pass orders, in view of the order passed by this Court upholding the Circular No.67, dated 03.11.2011 and the learned Senior Counsel further submitted that Apart from that the petitioners are not in a position to deal with the property in view of the endorsement made by the third



respondent based on the order passed by the second respondent dated 11.07.2016, therefore, the petitioners have filed the present writ petitions.

6.Learned Additional Government Pleader appearing for the respondents would fairly admit that the validity of the said circular has been upheld by this Court and the order passed by the learned single Judge was also not stayed by the Division Bench of this Court.

7.In the above circumstances, since the validity of the circular has been upheld by this Court and it was also not stayed by the Division Bench, there is no impediment for the respondent to proceed with the appeal filed by the petitioner dated 08.08.2016. Accordingly, the first respondent is directed to consider the appeal filed by the petitioner dated 08.08.2016 and pass orders after issuing notice to the petitioner as well as rival claimants, if any, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

8.So far as the endorsement made by the third respondent based on the order of the second respondent dated 11.07.2016 is concerned, since the said order is challenged by way of appeal before the first respondent, the impugned endorsement made by the third respondent is not valid. Accordingly, the endorsement made by the third respondent is set aside. However, it is made clear that any registration is made in respect of the above property is subject to the result of the order passed by the first respondent in the appeal filed by the petitioner.

9.In the result, both the writ petitions are allowed. No costs. Consequently, W.M.P.(MD)Nos.13792 to 13794 of 2016 are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector General of Registration,
Registration Department,
Santhome High Road,
Chennai 600 028.
- 2.The District Registrar (Administration),
Karaikudi.
- 3.The Joint Sub Registrar - II,
Karaikudi.

+1cc to Mr.N.Damodaran, Advocate in SR No.63160

+1cc to the Spl.Govt.Pleader in SR No.63293