

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.7594 of 2017

1.Selvi
2.Arun Kumar
3.Sivakumar

... Petitioners

Versus

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

2.The District Registrar (Admin),
Office of the District Registrar,
1/3, Vignesh Complex,
Postal Nagar, Tiruppur-2.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Impugned Letter passed by the first respondent dated 14.12.2016 made in Letter No.53255/U3/2016 and quash the same and consequently direct the 1st respondent to take up the petitioner's appeal preferred against the order of the 2nd respondent made Na.Ka.No.812/A1/2016 dated 22.09.2016 and dispose of the same.

सत्यमेव जयते

For Petitioner : Mr.M.R.Thangavel

For Respondents : Mr.R.S.Selvam

Government Advocate

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O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned Letter dated 14.12.2016 passed by the 1st respondent and for a consequential direction to the 1st respondent to take up his appeal preferred against the order of the 2nd respondent made in Na.Ka.No.812/A1/2016 dated 22.09.2016 and dispose of the same in accordance with law.

2. According to the petitioners, they along with their adjacent land owner one Sathasivam have entered into an agreement dated 18.05.2006 to create a right of pathway. The said pathway was formed by contributing 10 feet width and 20 feet length each in S.No.441/13 Muthur Village for the exclusive use of the said Sathasivam and the petitioners. The said agreement was registered as Document No.959 of 2006, by the Sub-Registrar, Vellakoil. It is the case of the petitioner that the other land owners, adjacent to the above said pathway without any valid right or title in his pathway, created forged document and registered the same under Document No.1472 of 2015 on the file of the Sub-registrar, Vellakoil. The said documents included his pathway situated in S.No.441/13, Muthur Village. Hence, the petitioner preferred a petition before the District Registrar, Tiruppur Registration District, the 2nd respondent herein, to conduct an enquiry in accordance with the Circular issued by the 1st respondent in Circular No.67, dated 11.02.2016.

3. Pursuant thereto, the 2nd respondent issued summons, heard and received written submissions from the respective parties. He also obtained a Report from the Sub-Registrar, Vellakoil. The said report was on a discreet enquiry made by the Sub-Registrar, Vellakoil, wherein, it was stated that no encumbrance is created in S.No.441/13, Muthur Village. But, the 2nd respondent, without considering the merits of the petitioner's petition, by an order dated 29.09.2016 in Na.Ka.No.812/A1/2016 rejected the same based on the Report of the Sub-Registrar, Vellakoil, in a blindfolded manner. Aggrieved by the rejection order, the petitioner preferred an appeal before the 1st respondent/Inspector General of Registration, Chennai along with the required documents. But, the 1st respondent, by an order dated 14.12.2016, informed the petitioner that the appeal proceedings have been stopped in view of the stay granted by this Court in M.P.No.1 of 2012 in W.A.No.1282 of 2012, dated 24.08.2012 and in W.P.No.26019 to 26021 of 2012 dated 26.09.2012.

4. When the matter came up for hearing, learned counsel for the petitioner submitted that in M.P.No.1 of 2012 in W.A.No.1382 of 2012, dated 24.08.2012 and in W.P.No.26019 to 26021, dated 26.09.2012, only stay of prosecution has been granted and therefore contended that there cannot be any impediment for the 1st respondent to dispose of the appeal.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. In view of the above, this Court is of the view that there cannot be any impediment for the 1st respondent to dispose of the appeal filed by the petitioner. Hence, the impugned proceedings

dated 14.12.2016, made in Letter No.53255/U3/2016 is quashed. Without going into the merits of the case, this Court directs the 1st respondent herein to take up the appeal filed by the petitioner against the order dated 22.09.2016 passed by the 2nd respondent and dispose of the same, by affording an opportunity of hearing to the petitioner as well as the necessary parties and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of copy of this order.

With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.
- 2.The District Registrar (Admin),
Officce of the District Registrar,
1/3, Vignesh Complex,
Postal Nagar, Tiruppur-2.

+1cc to Mr.M.R. Thangavel, Advocate, S.R.No.19519
+1cc to the Government Pleader, S.R.No.19507

NR II (CO)
md (27/04/2017)

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