

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.27312 of 2017

Mrs.K.Gunasekari

.. Petitioner

Vs.

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

2. The District Registrar
District Registrar Office
Nagapattinam - 611 001.

3. The Sub Registrar
Sub-Registrar's Office
Taluk Office Campus, Cutchery Road,
Thiruthuraipoondi - 614713
Thiruvavarur District.

4. C.Dhandapani

.. Respondents

PRAYER:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondent No.2 to dispose of the representation of the petitioner dated 08.07.2017.

For Petitioner : Mr.M.Palanivel

For Respondents : Mr.A.Kumar

Special Government Pleader for R1 to R3

O R D E R

Mr.A.Kumar, learned Special Government Pleader takes notice for the respondents 1 to 3. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a direction to the second respondent to dispose of her representation dated 08.07.2017 wherein and whereby she made a request for cancellation of the Sale Deed registered as Doc.No.2766/2011 dated 02.11.2011 on the ground that the same was executed and registered by making some

false claim by her brother in favour of the fourth respondent herein.

3. The above said representation itself was made by relying a circular No.67 dated 03.11.2011 issued by the Inspector General of Registration.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the said Circular has been withdrawn by a recent Circular issued by the Inspector General of Registration on 20.10.2017. He has also produced a copy of the said Circular dated 20.10.2017 indicating that the said Circular No.67 dated 03.11.2011 alone is withdrawn with immediate effect.

5. Apart from the said fact, this Court is of the view that the petitioner's attempt to agitate the matter before the Registering Authority is, in effect, nothing but to seek such authority to decide the title to the property. Such course of action cannot be permitted as the Registering authority cannot have any jurisdiction or power to decide the title dispute. Moreover in the recent decision of the Apex court reported in [(2016) 10 SCC 767], Satya Pal Anand V. State of Madhya Pradesh, it is categorically held that once the document is registered, it is not open to the Registering Officer to cancel that registration even if his attention is invited to some irregularity committed during the registration of the document and that the aggrieved party can challenge the registration and validity of the document before the Civil Court. It is further observed therein that the function of the Registering Officer is purely administrative and not quasi-judicial and that he cannot decide as to whether a document presented for registration is executed by person having title, as mentioned in the instrument. The relevant Paragraph Nos. 40 and 41 of the said decision is extracted hereunder:

"40. The Andhra Pradesh High Court, in Yanala Malleshwari was called upon to consider whether a person can nullify the sale by executing and registering a cancellation deed and whether the Registering Officer like District Registrar and/or Sub-Registrar appointed by the State Government is bound to refuse registration when a cancellation deed is presented. The fact remains that if the stipulation contained in Sections 17 and 18 of the 1908 Act are fulfilled, the Registering Officer is bound to register the document. The Registering Officer can refuse to register a document only in situations mentioned in sections such as Sections 19 to 22, 32 and 35. At the same time, once the

document is registered, it is not open to the Registering Officer to cancel that registration even if his attention is invited to some irregularity committed during the registration of the document. The aggrieved party can challenge the registration and validity of the document before the civil court. The majority view of the Full Bench was that if a person is aggrieved by the extinguishment deed or its registration, his remedy is to seek appropriate relief in the civil court and a writ petition is not the proper remedy.

41. Section 35 of the Act does not confer a quasi-judicial power on the Registering Authority. The Registering Officer is expected to reassure that the document to be registered is accompanied by supporting documents. He is not expected to evaluate the title or irregularity in the document as such. The examination to be done by him is incidental, to ascertain that there is no violation of provisions of the 1908 Act. In Park View Enterprises it has been observed that the function of the Registering Officer is purely administrative and not quasi-judicial. He cannot decide as to whether a document presented for registration is executed by person having title, as mentioned in the instrument. We agree with that exposition."

6. If the petitioner is having any grievance against the execution of such Sale Deed, by her brother in favour of the fourth respondent, that too, in the year 2011, she has to approach the competent Civil Court by filing appropriate Civil Suit. Without doing so, the petitioner approached this Court and filed the present writ petition seeking for the relief, as stated supra, is not maintainable. Accordingly, the writ petition is dismissed as not maintainable, however, with liberty to the petitioner to agitate the matter before the competent Civil Court. No costs.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

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

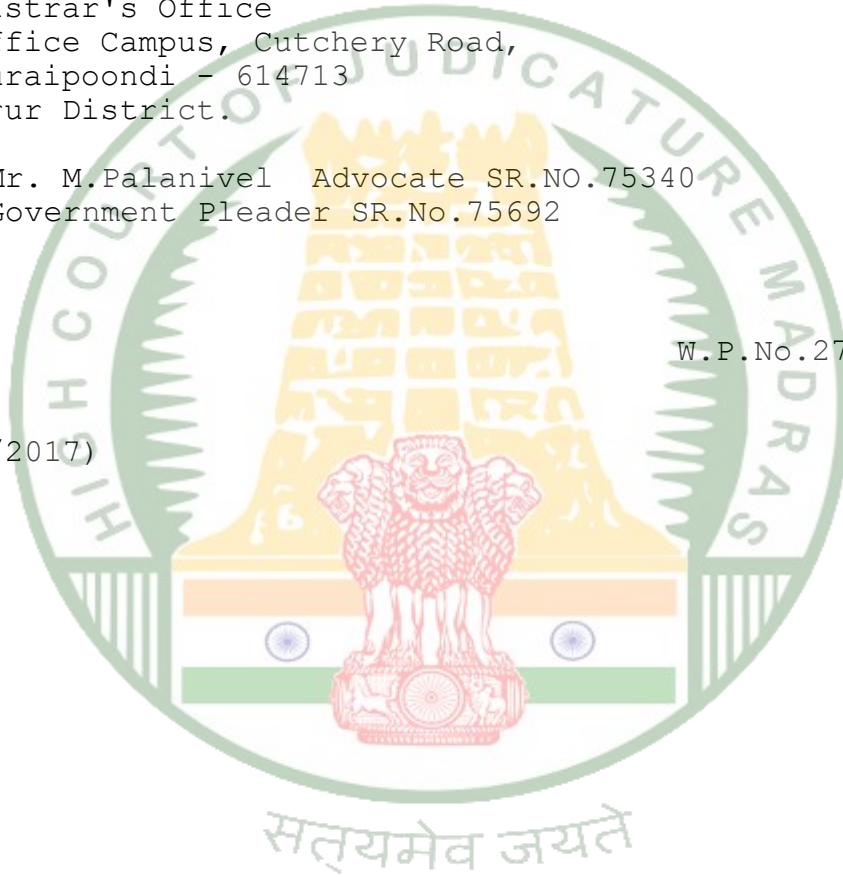
2. The District Registrar
District Registrar Office
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3. The Sub Registrar
Sub-Registrar's Office
Taluk Office Campus, Cutchery Road,
Thiruthuraipoondi - 614713
Thiruvarur District.

+1 CC to Mr. M.Palanivel Advocate SR.NO.75340
+1 CC to Government Pleader SR.No.75692

W.P.No.27312 of 2017

RV(CO)
VC (11/11/2017)



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