

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.1783 of 2017

M.Maria Rajam

... Petitioner

vs.

The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the impugned letter of the respondent in No.35069/U2/2016, dated 27.10.2016, quash the same and consequently direct the respondent to hear the appeal and pass orders in the appeal.

For Petitioner : Mrs.Chitra Sampath,
Senior Counsel
for Mr.D.Naveen Durai Babu

For Respondent : Mr.S.Rajeswaran,
Special Government Pleader

O R D E R

Seeking to quash the impugned letter of the respondent dated 27.10.2016 and for a consequential direction to the respondent to hear the appeal and pass orders on the same, the petitioner is before this Court by way of the present Writ Petition.

2. According to the petitioner, she became the owner of the property measuring an extent of about 4000 sq. ft. in Plot No.2, Arcot Road, Lakshmi Nagar, Virugambakkam Village, comprised in Survey Nos.186, 187, 190/1, 190/2 and 191 part, by means of the Settlement Deed executed by her husband viz. Michael Arokiam, in her favour.

3. The case of the petitioner is that her husband executed a Power of Attorney in favour of one M.Murugesan, S/o.Muthu Nadar, which got registered as Doc.No.272/1983. Thereafter, her husband cancelled the Power of Attorney executed in favour of

the said M.Murugesan. In the meanwhile, the said M.Murugesan manipulated and forged documents, which got registered as Doc.Nos.1317/1984 and 940/1985 and conveyed the property. In this regard, the petitioner's husband made a complaint to the District Registrar, Administration, South, Chennai on 04.01.2012. Since the District Registrar failed to conduct proper enquiry, her husband made a representation dated 31.10.2012 to the respondent to verify the genuineness of the documents vide Doc.No.1317/1984 and 940/1985 by making proper enquiry in accordance with law. Being convinced with the genuineness of the documents, the respondent directed the District Registrar (Administration), South, Chennai to take suitable action and to verify whether those documents were registered illegally and if so, take criminal action under Section 83 of the Indian Registration Act, however, not to cancel the documents since the issue of cancellation of documents is pending before this Court.

4. Despite the said direction, since there was delay in completion of the enquiry, the petitioner was constrained to file a Writ Petition in W.P.No.25894 of 2014 before this Court seeking a direction to the District Registrar (Administration), South Chennai to complete the enquiry within a fixed time frame. Since the said Writ Petition got to be dismissed, the petitioner filed a Writ Appeal in W.A.No.1598 of 2015, which came to be allowed with a direction to the District Registrar (Administration), South Chennai to complete the enquiry within a prescribed time.

5. Pursuant to the order in the Writ Appeal, the District Registrar (Administration), South, Chennai conducted an enquiry and proceeded to decide the issued against the petitioner that during the registration of the sale deed and the Rectification Deed, formalities were not properly followed. As against the said order, the petitioner preferred a statutory appeal before the respondent as provided under the Registration Act. The respondent, being seized of the matter, issued a Letter in No.35069/U2/2016, dated 27.10.2016, wherein, he has stated that an appeal can be heard only after this Court vacates the stay granted against Circular No.67/2011, dated 03.11.2011 issued by the respondent. Hence, challenging the impugned Letter dated 27.10.2016 of the respondent, the petitioner is before this Court.

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

7. Learned Senior Counsel appearing for the petitioner submitted that as per the impugned Letter, Circular No.67/2011 dated 03.11.2011 has been stayed by this Court, but,

unfortunately, in a batch of Writ Petitions, Circular No.67/2011 has been upheld by this Court, against which, an appeal was preferred and the Appellate Court has stayed the further proceedings insofar as criminal action alone is concerned. She contended that there is no embargo to conduct an enquiry under Section 67 and without knowing the present fact, a stereotyped order has been passed by this Court.

8. It is the further contention of the learned Senior Counsel that as against the judgment of this Court in W.A.No.1598 of 2015, dated 10.03.2016 directing the authority concerned to enquire into the matter, an appeal was presented before the District Registrar. But, the said appeal was not taken into file and an order was passed under Section 67. Hence, according to her, the impugned order is per se illegal and nonest in the eye of law, since no notice has been served upon the petitioner before passing of the impugned order.

9. Taking note of the submissions made on either side and without going into the merits of the case, this Court is of the view that summarily, the impugned order has got to be set aside only for two reasons, firstly, no notice has been served on the petitioner by the District Registrar to put forth her case and secondly, even as per the Division Bench order of this Court, the matter was directed to be disposed of, pursuant to which, an order was passed by the District Registrar and aggrieved by the same, an appeal has been filed.

10. In view of the above, this Court sets aside the impugned letter of the respondent dated 27.10.2016 and remits the matter to the authority concerned with a direction to give sufficient opportunity to the petitioner to put forth her case, by giving notice to the petitioner and consider her case on merits and in accordance with law and pass appropriate orders, as expeditiously as possible.

This Writ Petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

+lcc to Mr.D. Naveen Durai Babu, Advocate, S.R.No.4954
+lcc to the Government Pleader, S.R.No.5298

rk(CO)
md(14/02/2017)

W.P.No.1783 of 2017



WEB COPY