

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

W.P.No.31110 of 2013
and
M.P.No.2 of 2013

D.Sivalingam

... Petitioner

Vs

1.State Rep. by
The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai-28.

2.The District Registrar,
O/o.The District Registrar,
Chengalpattu.

3.The Sub Registrar,
Chengalpattu,
O/o.The Sub Registrar,
Chengalpattu.

4.V.L.Radhakrishnan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari to call upon the impugned circular No.67 dated 03.11.2011 on the file of the 1st respondent and the consequential communication of the 2nd respondent in his proceedings Na.Ka.No. 1431/A1/2013 dated 24.10.2013 and to quash the same.

For Petitioners : Mr.M.Rajasekhar

For Respondents : Mr.R.Vijayakumar,
Additional Government Pleader
for R1 to R3

Mr.G.Mutharasu for R4

O R D E R
[Order of the Court was made by A.SELVAM, J.]

This Writ Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to Circular No.67 dated 03.11.2011, issued by the first respondent and the consequential communication of the second respondent in Na.Ka.No.1431/A1/2013 dated 24.10.2013 and quash the same by way of issuing Writ of Certiorari.

2.The learned counsel appearing for the petitioner has sparingly contended to the effect that the second respondent has issued a proceeding in Na.Ka.No.1431/A1/2013 dated 24.10.2013, by virtue of Circular No.67 dated 03.11.2011 and the said Circular has been withdrawn by the Government of Tamil Nadu and therefore, the petitioner is entitled to get the relief sought in the petition.

3.The learned Additional Government Pleader has submitted the Circular dated 20.10.2017, issued by the Government of Tamil Nadu, wherein, it is clearly stated that Circular No.67 dated 03.11.2011 has already been withdrawn.

4.Now the Court has to look into, as to whether the impugned proceeding of the second respondent has been issued, in pursuance of Circular No.67 dated 03.11.2011.

5.It is seen from the records that the first respondent has issued a Circular to initiate proceedings, by virtue of Circular No.67 dated 03.11.2011.

6.It is an admitted fact that the second respondent has issued a notice dated 24.10.2013 in Na.Ka.No.1431/A1/2013, wherein, the petitioner has been directed to make appearance for enquiry on 11.11.2013.

7.Considering the fact that Circular No.67 has already been withdrawn by the Government of Tamil Nadu and also considering the date mentioned in the impugned notice dated 24.10.2013 has already become expired, this Court is of the view that the reliefs sought in the Writ Petition can easily be granted.

8.The learned counsel appearing for the fourth respondent has contended to the effect that the fourth respondent is the absolute owner of the property in question and since a bogus document has been created, in respect of the same, a representation has been given to the second respondent. But, since a stay has been granted in the present writ petition, the

second respondent is not able to proceed independently under Section 83 of the Registration Act, 1908.

9.It is an everlasting principle of law that as per Section 83 of the said Act, the District Registrar, viz., the second respondent herein is having power to recommend for criminal prosecution, if there is any sufficient ground. Since such power vests with the second respondent, this Court is inclined to pass the following order:

In fine, this Writ Petition is allowed without cost. The consequential notice dated 24.10.2013 issued by the second respondent in Na.Ka.No.1431/A1/2013 is quashed. Since on the basis of the complaint given by the fourth respondent, an FIR has been registered in Crime No.50 of 2012 and the same has been investigated and a Final Report has also been filed and the same has been taken on file in C.C.No.56 of 2016 on the file of the Judicial Magistrate No.II, Chengalpattu, no specific order is required so as to direct the second respondent to launch prosecution on the basis of the registration alleged to have been given by the fourth respondent. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gya
To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai-28.

2.The District Registrar,
O/o.The District Registrar,
Chengalpattu.

3.The Sub Registrar,
Chengalpattu,
O/o.The Sub Registrar,
Chengalpattu.

+1cc to Mr.M.Raja Sekhar, Advocate, S.R.No.78023

+1cc to Mr.G.Mutharasu, Advocate, S.R.No.78154

+1cc to the Government Pleader, S.R.No.77959

W.P.No.31110 of 2013

and M.P.No.2 of 2013

GJ II(CO)
CA(22/11/2017)