

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.No.34391 of 2012

G.ASAITHAMBI

[PETITIONER]

Vs

- 1 THE INSPECTOR GENERAL OF
REGISTRATION NO.120
SANTHOME HIGH ROAD
CHENNAI-28.
 - 2 THE DISTRICT REGISTRAR
(ADMINISTRATION)
REGISTRATION DISTRICT
NAGAPATINAM NAGAPATINAM.
 - 3 THE SUB REGISTRAR
MANNARGUDI REGISTER OFFICE
MANNARGUDI.
 - 4 R.SIVAKUMAR
(impleaded as R4 by order
dated 24.02.2017 in M.P.No.1/13)
- [RESPONDENTS]

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ mandamus directing the second respondent herein to dispose of the representation of the petitioner dated 27.2.2012 forwarded by the first respondent in letter No.11659/C4/2012 dated 19.03.2012 to the second respondent herein.

For Petitioner : Ms.Dakshayani Reddy

For Respondents: Mr.S. Gunasekaran, AGP

ORDER

Ms.Dakshayani Reddy, learned counsel is present on behalf of the writ petitioner and Mr.S.Gunasekaran, learned Additional Government Pleader is present on behalf of the respondents.

2. By consent, the main writ petition is taken up for disposal, after allowing the petition for impleading today
(24.02.2017)

3.1 It is the case of the writ petitioner that one R.Sivakumar suddenly came up with a Will claiming that the same has been executed by writ petitioner's mother Koothayi Ammal, who had died on 01.12.2005. The Will is dated 14.04.2004 and registered as Document No.17/04 on the file of the 3rd respondent namely the Sub Registrar, Mannargudi Register Officer, Mannargudi.

3.2 It is the contention of the writ petitioner's counsel that the registration is fraudulent. It is her further contention that it was through impersonation. Therefore, the writ petitioner has sent a representation dated 27.2.2012 to the 1st respondent, who under cover of letter dated 19.03.2012 bearing Ref. No.11659/C4/2012 has forwarded the same to the 2nd respondent.

3.3 It is the contention of the writ petitioner's counsel that the 2nd respondent herein has to conduct enquiry into the petitioner's complaint contained in the said representation, as per the procedure in Circular No.67 dated 03.11.2011.

3.4 It is the case of the writ petitioner that there was inaction on the part of the 2nd respondent and therefore, the instant writ petition has been filed.

4. Writ petitioner's counsel would also circulate four orders passed by four different Honourable Judges of this Court in somewhat similar circumstances and the orders are as follows:

(i) Shanthameenakshi and another vs. The District Registrar and others - W.P.(MD) No.20689 of 2014 dated 04.06.2015.

(ii) P.S.Rajulu vs. the Government of Tamil Nadu, rep. By its Secretary, Registration Department and others - W.P.(MD) No.16609 of 2015 dated 14.09.2015.

(iii) D.Gandhimathi vs. The District Registrar, District Registration Office, Madurai and another - W.P.(MD) No.13159 of 2016 dated 27.07.2016.

(iv) Malliga Arulkumar vs. The Inspector General of Registration, Santhome - W.P.(MD) No.15649 of 2015 dated 17.10.2016.

5. Relying on the above said orders that were circulated, the learned writ petitioner's counsel would submit that it would only be appropriate to direct the 2nd respondent

to conduct enquiry into the petitioner's complaint vide representation dated 27.02.2012, in accordance with Circular No.67 dated 03.11.2011.

6. It is necessary to state that Circular No.67 was challenged by various persons in a batch of writ petitions and ultimately a learned Single Judge of this Court vide order dated 17.07.2014 passed in W.P(MD)Nos.5908 of 2012 etc. batch of cases (Ramasamy vs. State of Tamil Nadu, rep. By the Secretary, Revenue Department reported in 2014 (4) CTC 627) has upheld the validity of the Circular No.67 dated 03.11.2011. The State (Government of Tamil Nadu) has filed Writ Appeals and one such Writ Appeal is W.A.No.1382 of 2012 against the said order and the learned Additional Government Pleader now brings to my notice that in M.P.No.1 of 2012 in the said Writ Appeal, an interim order dated 24.08.2012 has been passed and the same reads as follows:

"Interim stay of prosecution. Notice".

Therefore, it is clear that as of today, the validity of Circular No.67 has been upheld by a Hon'ble single judge of this Court and in an Intra Court writ appeal, there is stay of prosecution alone. It is not in dispute that Circular No.67 is therefore operating and is being applied in cases which requires such application.

7. The above orders of the four Hon'ble Judges of this Court also are in the same lines. Therefore, I am inclined to pass the following order:

i) the representation of the writ petitioner dated 27.02.2012 sent to the 1st respondent and forwarded by the 1st respondent to the 2nd respondent under cover of letter Ref. No.11659/C4/2012 dated 19.03.2012 shall be acted upon by the 2nd respondent;

ii) (i) above would mean that the 2nd respondent shall act upon the said representation dated 27.02.2012 in accordance with the procedure laid down for enquiry in Circular No.67 dated 03.11.2011.

iii) In the process of complying Circular No.67 dated 03.11.2011 qua the Will dated 14.04.2004 (document No.17/04 on the file of the 3rd respondent), the 2nd respondent shall issue notice to the 4th respondent herein (R.Sivakumar) and give him adequate opportunity in the enquiry.

iv) The entire exercise set out above shall be completed by the 2nd respondent within a period of six weeks from the date of receipt of a copy of this order.

8. Writ petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rg

To

1 THE INSPECTOR GENERAL OF
REGISTRATION NO.120 SANTHOME HIGH ROAD
CHENNAI-28.

2 THE DISTRICT REGISTRAR
(ADMINISTRATION) REGISTRATION DISTRICT
NAGAPATINAM NAGAPATINAM.

3 THE SUB REGISTRAR
MANNARGUDI REGISTER OFFICE MANNARGUDI.

+ 1 cc to Mr.N. Sankara Sabari, Advocate SR.11922
+ 1 cc to Government Pleader Sr.12673

W.P.No.34391 of 2012

SV(CO)
EU 20.03.17

सत्यमेव जयते

WEB COPY