

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.14094 of 2012

and

M.P.No.2 of 2012

and

M.P.No.1 of 2015

1.Mrs.Jayalakshmi Ammal

2.Mrs.Rajeswari (Died)

3.Mrs.V.Vasantha

4.J.Murugavel,
rep.by his wife Mrs.M.Sangeetha
.. Petitioners

(P4 is substituted as LR of deceased P2
Mrs.Rajeswari as per order dated 20.2.2017
by this Court in WMP No.3532 of 2017 in
W.P.No.14094 of 2012)

vs.

1. State of Tamilnadu,
represented by its Secretary,
Commercial Taxes and
Religious Endowment Department,
Fort St.George,
Chennai - 600 009.
2. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai - 600 028.
3. The District Registrar,
Office of the Registrar of District,
No.9, Jennis Road,
Saidapet, Chennai - 600 015.
- 4.M.G.Maharajan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records insofar as it relates to Notice No.15869/Aa.1/2011 dated 17.4.2012 issued by the 3rd respondent and quash the same.

For petitioner : Mr.K.Sellathurai

For respondents 1 to 3 : Mr.A.Rajaperumal
Additional Government Pleader
for RR1 to R3

For 4th respondent : Mr.S.Ferozkhan for R4

ORDER

Heard the learned counsel for the petitioners, learned Additional Government Pleader for respondents 1 to 3 and the learned counsel for the fourth respondent.

2. In the affidavit filed in support of the Writ Petition, it is stated that the second petitioner, her mother, his grand mother and sister jointly owned and possessed 6.85 Acres land in Survey No.230/1-A-1A Murugesan Nagar Colony at No.22, Tirunindravur Village, Sriperumbudur Taluk, now Poonamallee Taluk, Tiruvallur District. These lands were originally formed part of larger extent of 20 Acres, originally owned and possessed by Murugesu Mudaliar. After selling a portion of land, the said Murugesu Mudaliar executed a Will on 30.3.1955 bequeathing 6.85 Acres of land to be inherited by his two grand daughters absolutely, namely, the second petitioner and third petitioner and the second petitioner's mother, Jayalakshmi, the first petitioner herein, having life interest only in the said property. By the said Will Mrs.Meenambal, wife of Murugesu Mudaliar, was appointed as Executrix and incase, she predeceased the executor, then Mrs.Jayalakshmiammal, the daughter-in-law of Murugesu Mudaliar, and the mother of the second petitioner will be the Executrix. The said Murugesu Mudaliar died on 24.07.1955 and his wife Meenambal died in the year 1958. By Sale Deed dated 6.2.1996, the second petitioner along with her sister and mother sold 1800 sq.ft. Land in S.F.No.230/1A bearing Plot No.51-A, 5th Cross Street, Murugesu Nagar Colony, Tirunindravur Village, Tiruvallur District and registered as Document No.420 of 1996 on the file of the Sub Registrar, Avadi, in favour of Mrs.K.Shakeela Bhanu. They also sold 1807 sq.ft.land S.F.No.230/1-A at Plot No.51-B, 5th Cross Street, Murugesu Nagar in Village No.22, Tirunindravur, Sriperumbudur Taluk, now Poonamallee Taluk, Tiruvallur District and registered as Document No.1604/1996 in the Sub Registrar's Office, Avadi, in favour of Suresh Kumar and Nanda Kumar. They also sold Plot No.51-C, and 52 Part at No.20, Tirunindravur Village, comprised

in Survey No.230/1-A, admeasuring 5355 sq.ft. Land in favour of R.Rajarathina Naidu, son of Ramachandra Naidu, by Sale Deed dated 31.01.1996 and registered as Document No.358 of 1996 in the office of the Sub Registrar, Avadi. He sold the sand land to one P.Balakrishnan in the year 2001. The said purchasers have put up the residential houses after obtaining Sanctioned Plan and residing there since 1996. While so, one Venkateswaran has given a complaint before the D.C.B., Sub-Urban Commissioner, St.Thomas Mount, Chennai, on 20.5.2010, alleging that the said plot belonged to him. On the basis of the said complaint, the Inspector of Police, Central Crime Branch-I, issued a notice to the petitioners on 16.6.2010 to appear before him for enquiry. They also appeared before him on 18.6.2010 and submitted all original documents. After being satisfied that the allegations were without any merits, he closed the complaint. The fourth respondent has now given a complaint before the 3rd respondent on 19.12.2011 alleging the Plot No.51 at Murugesu Nagar Colony in Village No.22, Tirunindravur, Sriperumbudur Taluk, now Poonamallee Taluk, Tiruvallur District, measuring 5400 sq.ft. was purchased by one late V.Mangalam on 14.10.1960 vide Document No.2924/1960 on the file of the Sub-Registrar, Poonamallee and the said land now have been sold to Mrs.Shakeela Banu and two others as stated above. It is claimed that the purchaser Mrs.V.Mangalam died more than 30 years back and her husband N.Venkateswaran has also passed away and the fourth respondent has been appointed as Power Agent by Nagasamy and V.Natarajan, the children of late V.Mangalam and Venkateswaran. The third respondent has issued notice in his reference No.15869/Aa.1/2011 dated 17.4.2012 directing the petitioners to appear for an enquiry on 18.5.2012. The petitioners also appeared before the third respondent for enquiry. The third respondent also informed the second respondent about Circular No.67 dated 3.11.2011. As per the said Circular, the second respondent can annul the registration of any document as described under Section 49 of the Registration Act and also lodge a complaint before the concerned Police authorities and the District Registrar to complete the enquiry within two months. According to the petitioners, it is not in dispute that the lands belonged to the second petitioner and her sister and the Sale Deeds have been executed by them to Mrs.Shakeela Bhanu and two others as stated above as lawful owner and by no stretch of imagination, the said Sale Deeds can be stated as fraudulent registration or impersonation. According to the petitioners, the fourth respondent is totally a stranger and he, suddenly, appears after 52 years. The Sale Deed dated 14.10.1960 does not relate to the said property and no survey number has been given and the petitioners apprehend that it is a forged and fraudulent document fabricated by the fourth respondent. Hence, the present Writ Petition has been filed by the petitioners.

3. The fourth respondent has filed a counter affidavit denying the averments made in the affidavit filed in support of the Writ Petition. According to him, he is the Power of Attorney of the sons of N.Venkateswaran. According to the fourth respondent, his aunt, Late Mrs.V.Mangalam had purchased land in Plot No.51 in Murugesa Nagar Colony, Thirunindravur Village from - (i) Mrs. Jayalakshmi Ammal, w/o.Kannabiran Mudaliar, (ii) Mrs.Rajeswari Ammal, w/o.Jayaram Mudaliar and (3) Mrs.Vasantha Ammal, w/o. Viswanatha Mudaliar. The extent of the aforesaid Plot No.51 is totally 5400 sq.ft. as per the Original Sale Deed No.2924 of 1960 registered on 14th October, 1960 in the name of the said Mangalam. The aforesaid vendors illegally sub-divided Plot No.51 as 51 A, 51B and 51C and illegally made second sale to Mrs.K.Shakeela Banu, Mr.Suresh Kumar and Nanda Kumar, C.Balakrishnan, Tharagan and C.Balakrishnan under various extents with illegal S.F.No.230/1A. The petitioners concealed the fact of having sold and registered the Plot No.51, Murugesa Nagar Colony, measuring about 5400 sq.ft. in the year 1960 as per the Original Sale Deed No.2924 of 1960 in the name of Mrs.Mangalam. Hence, the present Writ Petition is liable to be dismissed.

4. Perused the impugned Notice No.15869/Aa.1/2011 dated 17.4.2012 issued by the third respondent to the petitioners. In the said notice, the third respondent has directed the petitioners to appear before him for enquiry on 18.05.2012 at 11.00 a.m.,. Against the aforesaid notice, the petitioners have approached this Court by challenging the said notice. As rightly pointed out by the learned counsel for the fourth respondent, Circular No.67 dated 3.11.2011 was challenged before this Court and this Court considered the validity of the said Circular and dismissed the Writ Petitions in W.P.No.5908, 3247, 15361 of 2012 etc (batch cases) by order dated 17.7.2014. Paragraph No.13 is usefully extracted hereunder:

"13. In the light of the foregoing discussion, this Court does not find any illegality or flaw either in the impugned circular or the annulment orders respectively of the IGR and the District Registrars concerned. Consequently, W.P. (MD) Nos.5908, 3247, 15361, 8003, 13056, 13057, 13516, 13634, 10807, 13889 & 14022/12 & 331, 454, 1946, 1947, 3681, 3682, 9075, 16712, 17057, 3095/13, wherein the validity of the Circular and the annulment order is challenged, fail and they are dismissed as devoid of any merit and W.P. (MD) Nos.2611, 3450, 3692, 10921, 12204 & 12894/12, 1627, 2027, 2028, 2181,

2811, 3578, 3651, 4101, 10415, 11280, 14835, 15488, 16606 & 17231/13 seeking enquiry based upon the Circular are ordered by making it clear that such inquiry shall have to be made only in terms of the provisions of the Act as well as the guidelines issued in the Circular and that there should not be any deviation by delving into the issues relating to title. Connected Miscellaneous Petitions stand closed."

5. The impugned notice in the present Writ Petition is only a notice issued by the District Registrar, Saidapet, Chennai/third respondent herein directing the petitioners to appear for enquiry relating to a complaint and there is nothing wrong in appearing for enquiry and disclose the true facts. As such, the Writ Petition deserves to be dismissed. It is open to the respondents to issue fresh enquiry notice to the petitioners and to proceed with the enquiry in the light of the order passed by this Court in W.P.Nos.5908, 3247, 15361 of 2012 etc (batch cases), dated 17.7.2014 and in accordance with law after providing opportunity to the parties concerned. In the light of the above discussion, no case has been made out by the petitioners.

6. In the result, the Writ Petition is dismissed. Connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

To

1. The Secretary,
Government of Tamilnadu,
Commercial Taxes and
Religious Endowment Department,
Fort St.George,
Chennai - 600 009.

WEB COPY

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

3. The District Registrar,
Office of the Registrar of District,
No.9, Jennis Road,
Saidapet, Chennai - 600 015.

+1 CC to M/s. K. Sellathurai, Advocate sr 10882

+1 Cc to Govt. Pleader sr 10833

RR (CO)
sp/21/4



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and
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M.P.No.1 of 2015

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