

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.24423 of 2012

and

M.P. No. 1 of 2012

Bharathi Mudaliar ... Petitioner  
by his power Agent R. Sachidanandam

vs.

1. The Joint Sub Registrar No.2  
Saidapet, Chennai.

2. Mr. S. Jayanthi  
D/o. V. Sivaprakasam  
38, Pillayar Koil Street  
Thiruvanmiyur  
Chennai - 600 041.

3. CTS Chidambaram  
S/o. CTS Chettiar  
5, CTS Garden  
Balaji Nagar 12<sup>th</sup> Street  
Adambakkam, Chennai-88.

4. Solaippan  
S/o. RMS Solaiappa Chettiar  
A-2, Ramana Enclave  
40/1, Madhava Road  
Mahalingapuram, Chennai-34 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records and quash the letter bearing No.78/2012 dated 03/04/12 on the file of the 1<sup>st</sup> respondent, Sub Registrar, Saidapet, Chennai and consequently direct the 1<sup>st</sup> respondent to take the complaint dated 07.04.2012 filed by the petitioner on the file and dispose of the same in accordance with law.

For Petitioner : Mr. Manohar Gupta  
for M/s. Gupta and Ravi  
For Respondents : Mr. S. Diwakar,  
Spl. Govt. Pleader for R1  
No Appearance for R 2 to R4

ORDER

This writ petition has been filed seeking to quash the letter bearing No.78/2012 dated 03/04/12 on the file of the 1<sup>st</sup> respondent, Sub Registrar, Saidapet, Chennai and consequently direct the 1<sup>st</sup> respondent to take the complaint dated 07.04.2012 filed by the petitioner on file and dispose of the same in accordance with law.

2. Learned counsel for the petitioner submitted that based on the registered sale deed dated 29.06.1982, the petitioner acquired the subject property and is in possession and enjoyment of the property. In the year 2009, the 2<sup>nd</sup> respondent filed a suit in O.S. No.744 of 2009 claiming title over the said property, which was dismissed on 28.04.2010 by the Additional District Munsif Court, Alandur. On 24.12.2011, respondents 3 and 4, attempted to interfere with the possession of the subject property, stating that they have purchased the subject property from the 2<sup>nd</sup> respondent vide sale deed dated 16.03.2009. Subsequently, it was found that the registration has taken place based on forged documents. Hence, the petitioner filed an application before the 1<sup>st</sup> respondent under Section 34(3) and 35 read with Section 55 of the Registration Act, 1908 for cancellation of the fraudulent registration done by the respondents 2 to 4. However, the 1<sup>st</sup> respondent has passed the impugned order stating that cancellation of the settlement deed and sale deed has to be done only by the persons, who have executed the documents, by preparing the cancellation deed. Aggrieved by the said order, this writ application has been filed.

3. Learned counsel for the petitioner filed an additional typeset of papers today and submitted that pursuant to the impugned order of the 1<sup>st</sup> respondent, the petitioner filed a suit in O.S. No.438 of 2014 before the Additional District Munsif, Alandur. In the suit the civil court has passed an ex-parte judgment and decree dated 22.12.2015, in favour of the petitioner. In the light of the subsequent judgment passed by the Civil Court, the present impugned order issued by the first respondent is liable to be set aside.

4. Learned Special Government Pleader would submit that pending the aforesaid writ petition, the petitioner has filed a suit before the Additional District Munsif, Alandur and

an ex-parte order has been obtained by the petitioner. Therefore, any further orders may be passed after affording an opportunity of hearing to all the parties concerned.

5. Considering the fact that the petitioner has obtained an order subsequently, in O.S. No.438 of 2014 on the file of learned Additional District Munsif, Alandur on 22.12.2015 the same has become final, the order of the 1<sup>st</sup> respondent is liable to be set aside.

6. In view of the above, the impugned order passed by the 1<sup>st</sup> respondent in his letter No.78/2012 dated 03/04/12 is set aside. The petitioner is directed to file a fresh application to the 1<sup>st</sup> respondent, in the light of the judgment passed in O.S. No. 438 of 2014 and on receipt of the same, the 1<sup>st</sup> respondent is directed to consider the application, after affording an opportunity to the parties concerned and decide the matter on merits and in accordance with law, as expeditiously as possible.

7. The Writ Petition is allowed, on the above terms. Consequently, the connected M.P is closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

avr

To

The Joint Sub Registrar No.2  
Saidapet, Chennai.

+1cc to Mr.Gupta & Ravi, Advocate, S.R.No.5360  
+1cc to the Government Pleader, S.R.No.6235

sr(CO)  
md(2/03/2017)

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