

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.30959 of 2016
and

Contempt Petition No.2648 of 2016

W.P.No.30959 of 2016:

1. N.Gomathi @ Somavathi
 2. N.Santhosh
 3. N.Kishore
- ... Petitioners

vs.

1. The District Registrar (Admin),
Tiruchengode Road,
Namakkal 637 003.
 2. The Sub Registrar,
Velur Paramathi Taluk,
Namakkal District.
 3. Sellammal
 4. Sudhakaran
- Respondents

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 relating to Na.Ka.No.4729/A1/2016, dated 11.08.2016 on the file of the 1st respondent, quash the same and further direct the 1st respondent to take on file the complaint dated 06.08.2016 presented by the 1st petitioner herein, register the same and conduct an enquiry as stipulated in Circular No.67, dated 03.11.2011 issued by the Inspector General of Registration, Chennai.

For Petitioners : Mr.D.Shivakumaran

For Respondents 1 & 2 : Mr.A.Kumar,
Special Government Pleader

For 3rd Respondent : Mr.Abrar Mohd. Abdullah

For 4th Respondent : Mr.V.Karthik, Senior Counsel
for K.V.Law Firm

Contempt Petition No.2648 of 2016:

1. N.Gomathi @ Somavathi
2. N.Santhosh
3. N.Kishore

... Petitioners/Petitioners

vs.

Sudhakaran

... Respondent/Contemnors

Contempt Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the respondent for his deliberate violation of the order of interim injunction dated 06.09.2016 granted in W.M.P.No.26822 of 2016 in W.P.No.30959 of 2016.

For Petitioners: Mr.D.Shivakumaran

For Respondent : Mr.V.Karthik, Senior Counsel
for K.V.Law Firm

C O M M O N O R D E R

Since the Contempt Petition arises out of the interim order passed in the above Writ Petition, both cases are taken up for disposal by a common order, with the consent of all the parties.

2. The present Writ Petition is filed seeking to quash the impugned order dated 11.08.2016 passed by the 1st respondent and for a further direction to the 1st respondent to take on file the complaint dated 06.08.2016 presented by the 1st petitioner herein, register the same and conduct an enquiry as stipulated in Circular No.67, dated 03.11.2011 issued by the Inspector General of Registration, Chennai.

3. According to the 1st petitioner, her father Singapoorar @ Kandasamy was possessed of movable and immovable properties which were his self-acquired properties. Her brother Vadivelan died a bachelor on 14.03.2000, leaving behind their mother as the legal heir. The 3rd respondent herein, viz. the 1st petitioner's mother filed an application on 27.04.2015 before the Revenue Divisional Officer, Namakkal, claiming maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, wherein, she has stated that her husband died on 03.07.2003; that during his lifetime, he executed a registered Will in favour of the petitioners herein on 29.01.2001; that the properties bequeathed by her husband in favour of the petitioners is worth crores; that the petitioners have neglected to take care of her and that she is suffering without food and shelter. According to the 1st petitioner, a perusal of the

said application clearly shows that the 3rd respondent is fully aware of the registered Will executed by her husband in favour of the petitioners, who are none other than his daughter and grandchildren.

4. It is the further case of the petitioners that after the death of the 1st petitioner's father on 03.07.2003, the petitioners became absolutely entitled to the properties in question bequeathed through the Will. In fact, they sold a terraced building (shops) totally measuring 1380 sq. ft. built over an extent of 1775 1/4 sq. ft. of land (5 portions) for a valid consideration to and in favour of one K.Sekar under a Sale Deed dated 22.05.2015 registered as Doc.No.1650/2015 in the office of the 2nd respondent herein, viz. the Sub-Registrar, Velur. While so, the 3rd respondent executed two Sale Deeds in 2016, as if her husband, i.e. the 1st petitioner's father died intestate; as if she is entitled to 2/3 shares in the immovable properties allegedly left behind without any Will and sold 2/3 share of the properties. The 3rd respondent executed two sale deeds dated 31.05.2016. The 1st petitioner also stated that the 3rd respondent executed a deed of cancellation dated 20.06.2016 cancelling the sale deed dated 31.05.2016 executed by her in favour of one A.Thiruchandran, registered as Doc.No.1498 on the file of the 2nd respondent herein.

5. Pursuant thereto, the petitioners presented a complaint before the 1st respondent on 06.08.2016, on the basis of Circular No.67, dated 03.11.2011 issued by the Inspector General of Registration, seeking suitable action against the respondents 3 and 4, as per law. But, the 1st respondent, instead of registering a complaint and enquiring into the same as per the mandate in the above said Circular, dated 03.11.2011 issued by the Inspector General of Registration, forwarded the complaint for a thorough consideration and a detailed report by the 2nd respondent along with the proceedings dated 11.08.2016. The grievance of the petitioners is that the 1st respondent has erroneously forwarded their complaint to the 2nd respondent, as the 2nd respondent is not the competent authority to enquire into the complaint. Hence, seeking to quash the impugned order dated 11.08.2016 passed by the 1st respondent, the petitioners have filed the above Writ Petition.

6. When the Writ Petition was taken up for hearing on 06.09.2016, this Court admitted the above Writ Petition in W.P.No.30959 of 2016 and granted an order of interim injunction in W.M.P.No.26822 of 2016 for a period of four weeks, restraining the 4th respondent from putting up any construction over any portion of the subject property.

7. The grievance of the petitioners is that when the said order of interim injunction was in force, the 4th respondent proceeded with the construction in the subject property in utter disregard and wilful violation of the order of interim injunction. Hence, having no other alternative, the petitioners have filed the present Contempt Petition.

8. After elaborate arguments, learned counsel for the petitioners submitted that the sale made to the 4th respondent is totally disputed, as the vendors to the sale have no legal right to the subject property. Since the 3rd respondent has suppressed the sale, it tantamounts to a wrongful act, which could be covered under Circular 67. He pleaded that if this Court sets aside the impugned order dated 11.08.2016 passed by the 1st respondent herein and directs the authority concerned to take on file the petitioners' complaint dated 06.08.2016 and conduct an enquiry as stipulated in Circular No.67, after giving notice to the respondents 3 and 4, the entire issue will be settled.

9. In reply, learned Senior Counsel appearing for the 4th respondent in the Writ Petition, viz. Sudhakaran, contended that the 4th respondent is a bonafide purchaser of the subject property and that he has right to put up construction and he cannot be evicted. He further submitted that the 4th respondent received an intimation from the Sub-Registrar, Velur, Paramathi Taluk as regards the order of interim injunction, only on 02.10.2016 and that in obedience to the order of this Court, he stopped construction in the subject property on 02.10.2016 itself.

10. Learned counsel appearing for the 3rd respondent in the Writ Petition submitted that the 3rd respondent has no apprehension about the order of this Court and hence, he submitted that a proper enquiry be conducted in this regard.

11. Heard the learned counsel for the parties and perused the material documents available on record.

12. Since the impugned order dated 11.08.2016 passed by the 1st respondent herein is without proper notice, the same is set aside. The 1st respondent herein/District Registrar (Admin), Namakkal, is directed to call for the entire records from the authority concerned and register the complaint dated 06.08.2016 presented to him by the petitioners and conduct an enquiry as stipulated in Circular 67, in accordance with law, after giving sufficient opportunity of hearing to the petitioners and the 3rd and 4th respondents herein. It is made clear that any construction made by the 4th respondent in the property in question will be subject to the result of the enquiry and the Report to be filed by the 1st respondent.

In fine, the Writ Petition is allowed with the above direction and the Contempt Petition is closed. No costs. Consequently, connected W.M.P.No.26822 of 2016 is closed.

-s/d-
Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To:

1. The District Registrar (Admin),
Tiruchengode Road,
Namakkal 637 003.
2. The Sub Registrar,
Velur Paramathi Taluk,
Namakkal District.

+1 cc to Mr.D.Shivakumaran Advocate sr 12046
+1 cc to M/s.K.V.Law & firm Advocate sr 11991
+1 cc to the Government Pleader sr 12640

Common Order in

W.P. No.30959 of 2016
and

Cont. Petn. No.2648 of 2016

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aa22/03/2017

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