



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.02.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.415 of 2015

M.Lakshmanan

..Petitioner

Vs

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

2.The District Registrar,
District Registrar's Office,
Tirunelveli District,
Tirunelveli.

3.T.Soundar Rajan

(R3 impleaded as per order of this Court in
M.P(MD)No.1 of 2015, dated 11.4.2016) ..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to give suitable direction to the second respondent to enquire and dispose the complaint filed by the Petitioner before the second respondent on 09.09.2014 as per the first respondent's Circular No.67, dated 3.11.2011 (C.No.52338/C1/2011) within the time stipulated by this Court.

For Petitioner :M/s.S.Selvakumar

For Respondents :Mr.T.S.Mohammed Mohideen
1 and 2 Addl.Govt.Pleader

For Respondent-3 :M/s.P.Mahendran

ORDER

The Petitioner seeks for a direction to the first respondent to give suitable direction to the second respondent to enquire and dispose of the complaint filed by him dated 9.9.2014.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard the learned counsel appearing on either side and

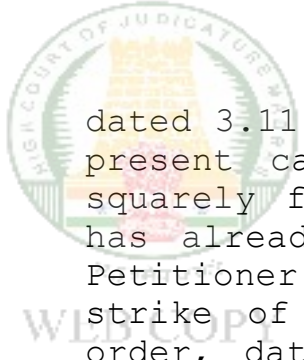
perused the material placed before this Court.

3.The Petitioner through the said complaint, dated 9.9.2014, sought for cancellation of rectification deed, dated 14.2.2014 registered as document No.239/14 executed by one Sankaran in favour of the third respondent by invoking the power conferred under Circular 67, dated 3.11.2011.

4.The grievance of the Petitioner as projected by the learned counsel for the Petitioner before this Court, is that, under the guise of executing a rectification deed, the property belonging to the Petitioner was included in the original sale deed and therefore, the Petitioner's right is seriously affected. Thus, according to the Petitioner, the third respondent and his vendor has played fraud and misrepresentation before the registering authority, by presenting the deed of rectification and getting it registered.

5.On the other hand, it is contended by the third respondent that in respect of the above said property, a civil suit is pending between the parties, namely, the Petitioner and the third respondent in O.S.No.204 of 2014, on the file of the Sub-Court, Tenkasi seeking for declaration and for permanent injunction, filed by the third respondent. Therefore, the learned counsel for the third respondent submitted that when the rights of the parties are to be finally decided and adjudicated upon by a competent civil Court, the Petitioner is not entitled to approach the registering authority and file a complaint by taking shelter under Circular No.67, dated 3.11.2011. It is also stated in the counter affidavit filed by the third respondent that the very same writ petitioner sought to strike of the pleadings in O.S.No.204 of 2014 by filing C.R.P.(MD)No.1488 of 2015 before this Court and has withdrawn the above C.R.P on 2.1.2017 with liberty to work out his remedy before the lower Court.

6.Upon considering the above said facts and circumstances, it is seen that there is no dispute to the fact that a civil suit is pending between the parties namely, the Petitioner and the third respondent in O.S.No.204 of 2014, on the file of the Subordinate Court, Tenkasi. The said suit is one seeking for declaration and for permanent injunction, filed by the third respondent herein against the petitioner. It is also not in dispute that the subject-matter land referred to in the petition filed by the Petitioner before the registering authority is the same subject-matter in the above suit. Therefore, it is evident that the competent civil Court has seized of the matter to decide the title of the parties in respect of the very same property. When that being the factual position, I do not think that the Petitioner is entitled to parallelly proceed before the registering authority by invoking Circular No.67, dated 3.11.2011. In my considered view, the scope and ambit of Circular No.67,



dated 3.11.2011 do not apply to the facts and circumstance of the present case, as the dispute between the parties would only squarely fall within the jurisdiction of the civil Court, which has already seized of the matter. In fact, the very same writ Petitioner who filed C.R.P(MD)No.1488 of 2015 before this Court to strike of the suit has withdrawn the C.R.P and this Court by order, dated 2.1.2017 while dismissing the C.R.P, as withdrawn, has also directed the Principal Subordinate Judge, Tenkasi to dispose of the suit in O.S.No.204 of 2014 as expeditiously as possible, in any event, not later than June 2017. When such being the order passed by this Court, nothing remains to be adjudicated upon in this Writ Petition, except dismissing the same with liberty to the respective parties to agitate the matter before the competent civil Court where O.S.No.204 of 2014 is pending.

7.Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

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

2.The District Registrar,
District Registrar's Office,
Tirunelveli District,
Tirunelveli.

+1 cc to MR.P.MAHENDRAN, Advocate SR.No.11445

+1 cc to Special Government Pleader SR.No.11181

W.P (MD) No.415 2015
27.02.2017

SMA/SKN-RSK/SAR-2/08.03.2017:3P/5C