

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10746 of 2016

and

W.MP.No.9382 of 2016

R.Ganesan

... Petitioner

vs.

1. The District Registrar (Administration)
South Madras, Jeanis Road,
Saidapet,
Chennai - 600 015.

2. The Joint Sub Registrar - No.1,
Saidapet, Chennai - 600 015.

3. R.Parameswaran

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the records of the 1st respondent herein in proceedings No.664/A3/2012 dated 29.02.2016 and quash the same.

For Petitioner : M/s. AL.Ganthimathi

For Respondents: Mr.T.M.pappiah for R1 & R2
Special Government Pleader.

Mr.D.Balachandran for R3

O R D E R

The order passed by the District Registrar in proceeding dated 29.02.2016 in respect of the registration of the fraudulent document is under challenge in this writ petition.

2. The writ petitioner states that the property bearing plot No.56 of an extent of 2480 sq.ft in Chendurpuram, Kattupakkam village, Sriperumpudur Taluk, Kancheepuram District belongs to the 3rd respondent and he purchased the same through the registered sale deed dated 03.09.1990.

3. During the year 1997, the 3rd respondent approached through the elder brother of the writ petitioner and offered sale for the said property. At the instant of the writ petitioner a power of attorney was proposed to be executed enabling the petitioner to deal with the property. A deed of

power of attorney dated 01.09.1997 was duly executed as document No.765 of 1997 in the office of the Joint Sub-Registrar, Saidapet, Madras South. The petitioner states that pursuant to the power of attorney executed he conveyed the said property to one Mr.C.Sengodan, Son of Chellappa Gounder by way of the registered sale deed dated 09.02.1998 registered as document No. 372 of 1998. Surprisingly the petitioner was taken in to custody by the Central Crime Branch, Chennai City stating complaint was lodged by petitioner against the 3rd respondent in respect of the validity of the power of attorney executed in his favour.

4. It is contended by the 3rd respondent that, a power of attorney was a fraudulent one and the writ petitioner has executed the sale deed without holding any valid power of attorney. In this regard a complaint was submitted before the District Registrar who in turn conducted an inquiry and passed an order in proceeding dated 29.02.2016. The impugned order also states that, further documents to be examined in order to ascertain the genuinity of power of attorney executed in favour of the writ petitioner.

5. The District Registrar requested the Joint Sub-Registrar under Section 83 of the Registration Act to initiate action in this regard. Thus, the Joint Sub-Registrar has to initiate all further actions to find out the genuinity or otherwise of the power of attorney registered in favour of the writ petitioner.

6. It is stated in the impugned order that, aggrieved person shall approach the Inspector General of Registration challenging the order dated 29.02.2016. The writ petitioner instead of preferring an appeal filed this writ petition.

7. The Learned Government Pleader also states that, the Joint Sub-Registrar has to ascertain the genuinity of the document and in view of the pendency of the present writ petition, said exercise was unable to be done. Thus, the Joint Sub-Registrar has to verify the genuinity or otherwise of all these documents and made a finding in this regard enabling the authorities to proceed further in this aspect.

8. This Court is of the opinion that, such complex facts and circumstances arising on account of the fraudulent registration or a document can never be adjudicated in a writ proceedings under Article 226 of Constitution of India. Such facts and circumstances are to be decided by verifying the original documents and by adducing evidence, if necessary, the said exercise has to be necessarily done by the competent authorities who all are empowered to conduct such inquiry by verifying the original documents and other relevant documents.

9. This being the legal principle to be followed the writ petitioner is at liberty to approach the Inspector General of

Registration, Santhom High Road, Chennai by way of appeal who in turn is empowered to conduct an inquiry by affording reasonable opportunity to all the parties concerned and decide the matter on merits and in accordance with law. If any such appeal is filed by the writ petitioner then the Inspector General of Registration shall consider the same and pass final orders preferably within the period of 12 weeks from the date of receipt of a copy of this order.

10. With these observations the writ petition stands disposed of. There shall be no order as to costs. Consequently connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Registrar (Administration)
South Madras, Jeanis Road,
Saidapet,
Chennai - 600 015.

2. The Joint Sub Registrar - No.1,
Saidapet, Chennai - 600 015.

+1 cc to Mr.Al.Gandhimathi, advocate,sr.61549
+1 cc to Govt.Pleader,sr.61746.

Rr(co)
krd 23/10

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