

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.08.2018

CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.1323 of 2016

M.Sivakumar

.. Petitioner

vs

1. The Inspector General of Registrations,
Registration Department,
Chennai 600 001.
2. The Deputy Inspector General of Registrations,
Office of the Deputy Inspector General of
Registrations,
395-A, Nanjundapuram Road, Ramanathapuram,
Coimbatore.
3. The District Registrar,
Office of the District Registrar,
Coimbatore - 18.
4. The Sub-Registrar,
Office of the Sub-Registrar,
Kinathukadavu,
Coimbatore District.
5. Marathal
6. Sivagami .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for records relating to the registration of Arbitration Award dated 09.12.2009 as document No.628 of 2010 on the file of the fourth respondent made in respect of properties in S.F.No.419/9 measuring 5.42 acres situated at Valukupparai Village, Kinathukadavu Taluk, Coimbatore District and to quash the same and consequently direct the fourth respondent to delete the entry of registration of Arbitration Award dated 09.12.2009 as document No.628 of 2010 in the encumbrance register maintained in his office.

For Petitioner : Mr.R.Nandhakumar
For Respondents 1 to 4 : Mr.T.M.Pappiah
Special Government Pleader
For Respondents 5 & 6 : Mr.M.Devendran

O R D E R

The registration of Arbitration Award dated 09.12.2009 registered as Document No.628 of 2010 on the file of the fourth respondent in respect of the properties in S.F. No.419/9 measuring 5.42 acres situated at Valukupparai Village, Kinathukadavu Taluk, Coimbatore District is sought to be quashed in the present writ petition.

2.The grievance of the writ petitioner is that the land belongs to him was fraudulently dealt with by the third parties namely respondents 5 and 6 and the fraudulent registration has been executed before the Sub Registrar, Coimbatore District, the fourth respondent herein.

3.Learned counsel appearing on behalf of the petitioner states that the petitioner was not a party to the registration of the said document before the Sub Registrar and the registration was executed behind his back. In this regard, the writ petitioner has submitted a police complaint and the same is under investigation. This apart, all these registrations are done at the instance of a fraudulent organisation run by some persons against whom criminal prosecutions were initiated and the same are pending. In these circumstances, the writ petitioner has submitted an application for cancellation before the Sub Registrar who in turn has not entertained the same on the ground that the petitioner has to approach the appropriate forum for adjudication of the civil disputes.

4.Learned counsel on behalf of respondents 5 and 6 opposed the contention by stating that they have not dealt with the property behind the back of the petitioner and the petitioner is aware of the dealing made by such persons.

5.When such disputed facts are raised by the parties, this Court cannot adjudicate the same in a writ proceedings under Article 226 of the Constitution of India. The Constitutional Courts time and again reiterated that complex question of fact and the disputes between the parties cannot be decided in a writ proceedings. It has to be agitated before the competent forum by producing documents and evidence.

6. In view of the fact that the writ petitioner has already submitted a complaint in respect of the aforesaid registration of the document in respect of the property owned by the writ petitioner, the third respondent/District Registrar is directed to conduct an enquiry in accordance with law and take a decision in respect of the claim made by the writ petitioner for cancellation of the document, which was registered behind his back. In this regard, the office of the Inspector General of Registration, Chennai-28 issued a Circular No.41350/U1/2017, dated 07.11.2017 by citing various judgments of the Apex Court and the High Court enabling the District Registrars to conduct an enquiry.

7. In view of the circular issued by the Inspector General of Registration, the third respondent District Registrar shall conduct enquiry by affording reasonable opportunity to all the parties concerned and take a decision and pass orders, on merits and in accordance with law. In this view of the matter, the writ petitioner is directed to submit a fresh application/complaint along with the documents to the District Registrar, Coimbatore, the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of any such complaint/application from the writ petitioner, the District Registrar, Coimbatore, the third respondent is directed to issue notice to all the parties concerned, conduct an enquiry by affording reasonable opportunity to all the parties concerned and if necessary provide a personal hearing for all the parties and thereafter take a decision and pass orders, on merits and in accordance with law within a period of twelve weeks thereafter. Accordingly, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Inspector General of Registration,
Registration Department,
Chennai 600 001.

WEB COPY

2. The Deputy Inspector General of Registrations,
Office of the Deputy Inspector General of
Registrations,
395-A, Nanjundapuram Road, Ramanathapuram,
Coimbatore.

3. The District Registrar,
Office of the District Registrar,
Coimbatore - 18.

4. The Sub-Registrar,
Office of the Sub-Registrar,
Kinathukadavu,
Coimbatore District.

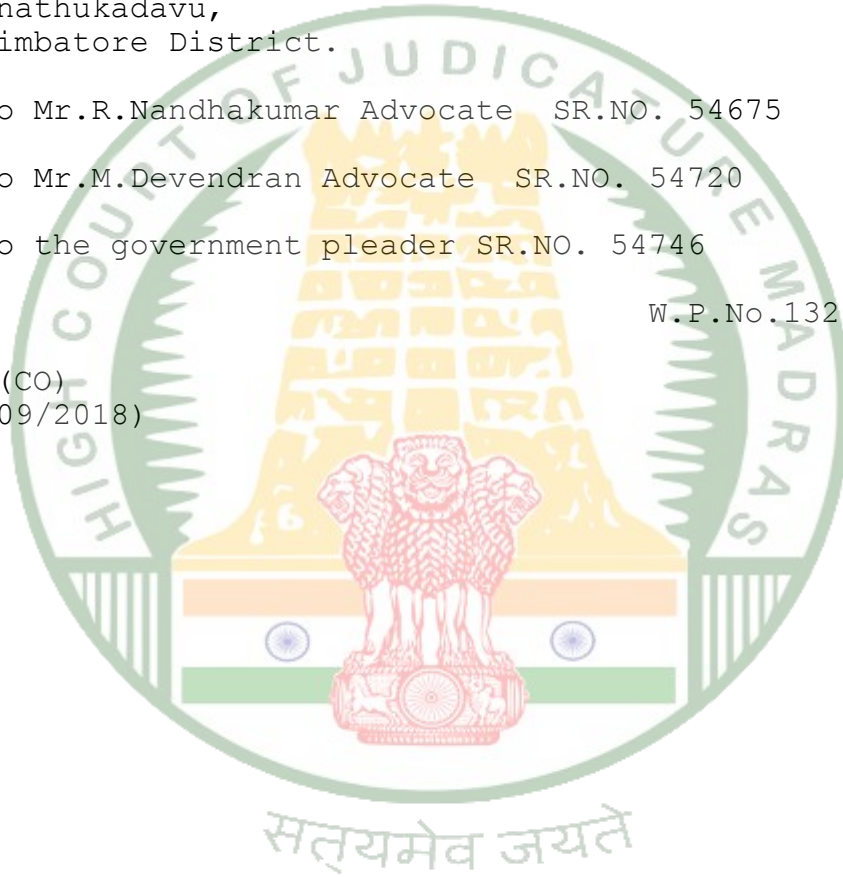
+1 cc to Mr.R.Nandhakumar Advocate SR.NO. 54675

+1 cc to Mr.M.Devendran Advocate SR.NO. 54720

+1 cc to the government pleader SR.NO. 54746

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GJ II (CO)
ASK(06/09/2018)



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