



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2018

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.18425 of 2018

and

W.M.P (MD) No.16302 of 2018

M/s GEE ISPAT Pvt. Ltd.,
rep. by its Authorized Person,
R.Pramodkumar,
No.54/5/37/B2, Backside to TNEB Office,
Kallikudi Road, Kariyapatti,
Virudhunagar District.

... Petitioner

Vs.

1. The Inspector of General of Registration,
Santhome, Chennai.
2. The District Registrar,
O/o the District Registrar,
Sivagangai District.
3. The Sub- Registrar,
O/o the Sub-registrar,
Manamadurai,
Sivagangai District.
- 4.Valliammal
- 5.A.Muneeswari

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 (Registration Authorities) to take immediate steps to prosecute the fourth and fifth respondents as provided under Section 82 and 83 of the Registration Act, 1908 for the fraudulent act committed by them in respect of the property of the petitioner comprised in Survey No.96/4A bearing patta No.361 to an extent of 5 Acres 32 cents of Manambakki village, Manamadurai, Sivagangai District.

For Petitioner : Mr.S.Arivalagan

For Respondents : Mr.M.Murugan

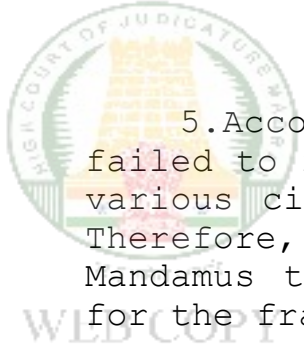
**ORDER**

The petitioner seeks for a direction to the respondents 1 to 3 (Registration Authorities) to take immediate steps to prosecute the fourth and fifth respondents as provided under Sections 82 and 83 of the Registration Act, 1908, for the fraudulent act committed by them in respect of the property of the petitioner comprised in Survey No.96/4A bearing patta No.361 to an extent of 5 Acres 32 cents of Manambakki Village, Manamadurai, Sivagangai District.

2.The case of the petitioner is that the property comprised in Survey No.96/4A to an extent of 5 Acres 32 cents in patta No.361 of Manambakki Village, Manamadurai, Sivagangai District, originally belonged to one Valliammal D/o Kunju Servai. The said Valliammal along with three others have executed a General Power of Attorney in the name of one P.Muthurakku, S/o Ponnusamy Servai in respect of the property. The said power deed was duly registered before the Sub Registrar vide Doc.No.300/2006 on 12.09.2006. Apart from the above, one Muthurakkammal also executed a General Power of Attorney in the name of Muthurakku in respect of another property belonging to her on 12.09.2006 vide Doc.No.298/2006. The said Muthurakku, as a power of attorney for both Valliammal and Muthurakkammal, has executed a registered sale deed in favour of the petitioner on 07.06.2007 vide Doc.No.1778/2007. The said sale deed was registered before the Sub-Registrar, Manamadurai.

3.According to the petitioner, from the date of purchase, they are in absolute possession and enjoyment of the property to an extent of 5 Acres 32 cents without any hindrance. While so, the fifth respondent, who has nothing to do with the property, started claiming right over the property and attempted to trespass into the property and occupation of the property. Thereafter, the petitioner verified the position as to the rights of the third respondent and to their surprise, it was found that Valliammal/the fourth respondent herein, after execution of the sale deed in favour of the petitioner, had executed a settlement deed in favour of her daughter/5th respondent on 25.06.2012 vide Doc.No.3189/2012 by bequeathing her property including the property already conveyed in favour of the petitioner.

4.According to the petitioner, the fourth respondent has no right to execute the settlement deed in favour of her daughter in respect of the property, which was also already sold to the petitioner in 2007. When a document was presented for registration, before registration, it is the duty of the registering authority to verify the encumbrance in respect of the property in the book maintained by them as per the Registration



5. According to the petitioner, the registering authority has failed to follow the provisions of the registration Act as well as various circulars issued in this regard by the higher officials. Therefore, the petitioner is before this Court seeking a Writ of Mandamus to take action against the fourth and fifth respondents for the fraud committed by them and cancel the documents.

6. From the facts disclosed in the affidavit filed in support of the writ petition, it appears that there is a dispute between the ownership of the subject property as between the petitioner and the fifth respondent and such a dispute cannot be settled in this Court, which is exercising the extraordinary jurisdiction under Article 226 of the Constitution of India. Although the petitioner has alleged fraud committed by the fourth respondent, whether any fraud has been committed by the fourth respondent has to be established on the basis of the evidence to be adduced before a proper competent civil court and such fraud cannot be established on the basis of the averments.

7. In any event, the dispute between the petitioner and the fourth and fifth respondents appears to be purely civil and criminal in nature and such dispute cannot be adjudicated before this Court in a writ jurisdiction.

8. Be that as it may, it has to be seen that the petitioner has not given any representation to the official respondents, namely, respondents 1 to 3 with regard to the alleged fraud committed by the fourth respondent. In the absence of any demand by the petitioner on the grievances projected in the writ petition, no Mandamus could lie. Therefore, this Court is of the considered view that the writ petition is not maintainable *per se* and therefore, the same is dismissed. It is however left open to the petitioner to approach the appropriate authority and establish any fraud played by the fourth and fifth respondents in registering the documents by the third respondent. In case any such representation is made, the same shall be looked into by the authority concerned and appropriate orders may be passed on the said representation within a reasonable time.

With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-I)

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1. The Inspector of General of Registration,
Santhome, Chennai.

2. The District Registrar,
O/o the District Registrar,
Sivagangai District.

3. The Sub- Registrar,
O/o the Sub-registrar,
Manamadurai,
Sivagangai District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.80341

SKN

BU/PM/SAR-IV : 04.10.2018 : 4P/5C

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