



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 31.10.2018

Delivered on : 19.11.2018

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THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.(MD) No.19755 of 2018

1. R.Prabakaran
2. R.Alamelu
3. R.Jagadeesan .. Petitioners

versus

1. The District Registrar (Administration),
District Registrar Office,
Dindigul Collectorate Buildings,
Velunachiyar Venue,
Dindigul-624 004.

2. S.Panchavarnam
3. P.Devendran .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the first respondent herein in his enquiry proceedings in Na.Ka.No.3264/A3/2018 dated 1.8.2018, quash the entire proceedings concerning the properties situated in Dindigul Town Survey Nos.1954/1A and 1961/1A insofar as petitioners are concerned.

For Petitioners : Mr. N.Balamuralikrishnan
For Respondents : Mr.M.Murugan, G.A. for R1

R2 & R3 :NA

ORDER

The petitioners have approached this Court, seeking the following relief:

"To issue Writ of Certiorari, to call for the records of the first respondent herein in his enquiry proceedings in Na.Ka.No.3264/A3/2018 dated 18.2018, quash the entire proceedings concerning the properties situated in Dindigul Town Survey Nos.1954/1A and 1961/1A insofar as petitioners are concerned."



2. The brief facts and circumstances necessitating the filing of the Writ Petition, are stated as under:

The first and third petitioners are the sons born to one Rengasamy Reddiyar and R.Alamelu, the second petitioner herein. The said Rengasamy Reddiyar died on 04.01.1993 leaving the petitioners as his legal heirs. During his life time, the said Rengasamy Reddiyar purchased a property measuring an extent of 5.62 acres and another property measuring an extent of 1.60 acres of land in town survey Nos.1954/1A and 1961/1A from the Dindigul Cooperative Housing Society registered as Document No.1123/1960 dated 1.3.1960. After the purchase of the above said properties, the said Rengasamy Reddiyar and his family members, namely, the petitioners herein have been in absolute possession and enjoyment of the same without any interference or hindrance.

3. The above said property was developed into layouts by converting the same into housing plots. The layout was approved by the authorities concerned and as per the mandatory requirement, a gift deed was executed on 9.12.1992 earmarking a considerable portion of the land in favour of the Commissioner, Dindigul Municipality. Subsequently, the plots were sold to several members of the public and several houses were constructed in the plots sold to third parties. The property in question had changed many hands over several decades and before the same was sold to Dindigul Cooperative Housing Society, it was absolutely owned by one Ramjidass Iyer and the said Ramjidass Iyer sold the property to the Dindigul Co-operative Housing Society by way of a registered sale deed bearing No.4187/1959 dated 31.7.1959. Thereafter, the property was subdivided into T.S.No.1954/1A covering an extent of 5.62 acres after allotting 0.14 acre for path way by the society and the same came to be purchased by Rengasamy Reddiyar, the father of the first and third petitioners and the husband of the second petitioner herein. While so, in 2011, it appears that second and third respondents started claiming ownership in respect of the subject property owned by the petitioners' family. Their claim was based on some release deed said to have been executed in 1941. The claim was baseless and unfounded since several transactions had taken place and it was ultimately sold to one Ramjidass Iyer, who in turn sold the property to Dindigul Cooperative Housing Society way back in 1959. The attempt by the henchmen at the instance of second and third respondents to extract money from the petitioners, was resisted. In the above circumstances, second and third respondents started filing litigations against the third party purchasers. In the meanwhile, second respondent submitted a representation to the first respondent on 22.4.2016 to cancel the gift deed executed by Late Rengasamy Reddiyar in favour of Dindigul Municipality in respect of land in T.S.No.1954/1. On this, the first respondent passed an order on 5.5.2016 rejecting the claim of the second respondent and directed him to approach the Civil Court stating that first respondent had no power to cancel any document registered unilaterally and it is open to the second respondent to approach the

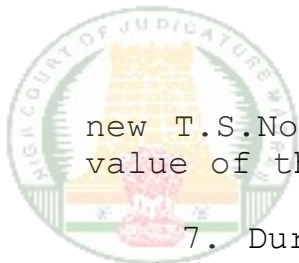


Civil Court for appropriate remedy. As against the order passed by the first respondent, a writ petition in W.P.(MD) No.10343 of 2016 was filed by the second respondent. A counter affidavit was also filed by the first respondent in the writ petition, resisting the claim of the petitioner therein, by stating that the writ petition was filed after 30 years after the gift deed was executed in favour of the first respondent Municipality in 1992. Even otherwise, the annulment of the document cannot be done by the first respondent and it is for the petitioners to approach the Civil Court to get the appropriate remedy. However, for some strange reasons, the petitioner in the above said writ petition, namely, the second respondent herein had allowed the writ petition to be dismissed as infructuous subsequently.

4. While matters stood thus, the second respondent appears to have submitted a representation on 30.6.2018 requesting the first respondent to cancel the entire sale deeds registered under various documents in respect of the subject property. In response to the said representation, the first respondent, contrary to earlier direction to the second respondent to approach the civil Court, had issued notice to the petitioners, directing them to appear before him for enquiry. According to the petitioners herein, the first respondent ought to have directed the second respondent to approach the civil Court for appropriate remedy and he cannot conduct the enquiry in regard to the cancellation of various sale deeds executed by the petitioners and no such jurisdiction was vested in him. In the said circumstances, impugned notice calling upon the petitioners for enquiry dated 01.08.2018 is put to challenge in the present Writ Petition.

5. Mr.N.Balamuralikrishnan, learned counsel appearing for the petitioners would submit that the second respondent having failed to secure any orders in his favour either at the hands of the first respondent or before this Court, has been attempting to file litigation after litigation only with an oblique motive to extract money from the petitioners. According to the learned counsel, the claim of the second respondent as to the title of the property in question is completely unfounded and baseless and in case he has any merits on his claim, the same can be adjudicated only before the civil Court and not before the first respondent. The first respondent has no jurisdiction to call for any enquiry since the second respondent appears to have submitted a representation for cancellation of various sale deeds and as per the rulings of various Courts, the Revenue authorities or the administrative authorities have no jurisdiction to cancel any documents registered unilaterally or even otherwise.

6. The learned counsel for the petitioners would submit that already the second respondent filed another writ petition in W.P. (MD) No.14021 of 2018 seeking a direction to the District Collector and the Dindigul Municipal Corporation to pay compensation with interest for illegally converting the vacant land in S.No.19541/1



new T.S.No.56/1A1, for a sum of Rs.1 Crore and 31 lakhs being the value of the property gifted to the Municipality.

7. During the course of arguments, the learned counsel for the petitioners brought to the knowledge of this Court that the above said Writ Petition in W.P.(MD) No.14021 of 2018 was dismissed by this Court vide order dated 26.9.2018 with costs imposed on the petitioner therein, namely, the second respondent herein of Rs.5000/-. This Court has made a very strong observation with regard to the conduct of the second respondent and the relevant portion of the order passed by this Court as found in paragraphs 5 to 8, is extracted hereunder:

"5. Moreover, the learned counsel appearing for the respondents would submit that in the above writ proceedings, a counter affidavit was filed on behalf of the Deputy Registrar, Dindigul and in paragraph 5 of the counter affidavit, it has been averred as below:-

"5. I submit that the writ petitioner seeks a remedy in order to cancel the gift deed executed by one Mr.Rengasamy Chettiar in favour of the Commissioner, Dindigul Municipality which was registered as Document No.1586 of 1992. After a lapse of around 30 years, the writ petitioner is seeking the remedy by way of filing the writ petition before this Hon'ble Court by invoking Circular No.67 issued by the 1st Respondent dated 3.11.2011. Even though the Circular was issued by the 1st Respondent during the year 2011 which was upheld by this Hon'ble Court as per judgment reported in Ramasamy vs. State of Tamil Nadu 2014 (4) CTC 627, the writ petitioner wants to annul the document registered during the year 1992 which cannot be countenanced. Apart from that, the writ petitioner has raised several disputed question of facts since she has not impleaded the necessary party namely one Mr.Rengasamy Chettiar, who is the Executant of the Gift Deed bearing Registration No.1586 of 1992. This Respondent cannot conduct a roving enquiry with regard to the ownership of the disputed property. These aspects can be agitated before the Civil Forum only. Under the above said circumstances only, I have passed the proceedings in OMU No.(Aa3)2396/2016 dated 05.05.2016 directing the Petitioner to approach the Civil Court for necessary relief.

6. From the above, it could be seen that the petitioner had been approaching authority with his vexatious claim in order to achieve certain collateral purpose with oblique motive. However, the present writ petition was filed notwithstanding the fact that the earlier writ petition for the same property has been



dismissed as having become infructuous at the instance of the petitioner himself. It is further to be seen that without disclosing the said filing of the writ petition, the present writ petition has been filed for the same cause of action, but with different averments. In fact, even in the present writ petition, a detailed counter affidavit has been filed on behalf of the second respondent resisting the claim of the petitioner.

7. From the averments as contained in the writ affidavit and also the above stated facts, it appears that the writ petitioner has been taking the jurisdiction of this Court for granted for achieving certain extraneous purpose. In fact, this writ petition has to be dismissed on the ground of non-disclosure of material facts, namely, the filing of the earlier writ petition by the petitioner himself in W.P (MD)No.10346 of 2016. However, even on merits, how the compensation towards damages to be claimed in writ jurisdiction, which would involve adjudication of disputed question of facts and such adjudication is not possible in writ jurisdiction of this Court.

8. In any event, from the pleadings and the materials placed on record, the petitioner has not approached this Court with clean hands and therefore, he is not entitled to any relief, much less the relief as prayed for. Therefore, this Court is of the view that both on the ground of maintainability as well as merit, the petitioner has no case at all and therefore, the writ petition stands dismissed as being completely devoid of merits and substance. In view of the non-disclosure of the material facts of approaching the Court earlier by the same petitioner in respect of the same grievances as projected in the writ petition in W.P(MD)No.10343 of 2016, this Court in the fitness of things imposes exemplary cost of Rs.5000/- (Rupees Five Thousand only) on the petitioner. The said cost shall be paid by the petitioner to the High Court Legal Services Authority (Madurai Bench), within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also dismissed."

Therefore, the learned counsel would submit that the present attempt by the second respondent is a clear attempt to encumber the subject property in some kind of proceedings before the first respondent or before this Court. Such attempt is only aimed to extract money from the petitioners and in such circumstances, notice issued by the first respondent, calling upon the petitioners to attend the enquiry, which is impugned in the writ petition, is unjust and unsustainable. He would therefore request this Court to set aside



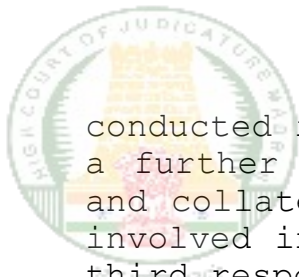
the impugned notice issued by the first respondent.

8. On behalf of the first respondent, Mr. Murugan, learned Government Advocate appeared and made his submissions.

9. Although notice has been served on the second and third respondents and their names appeared in the cause list, there was no representation on their behalf. Hence, this Court considered the materials and pleadings placed on record.

10. When the first respondent has originally thought it fit to reject the representation of the second respondent by his proceedings dated 5.5.2016 stating that he had no power to unilaterally cancel the gift deed conveyed by the said Rengasamy Reddiyar in favour of Dindigul Municipality, this Court does not understand as to on what basis, the first respondent issued impugned notice dated 1.8.2018 in respect of request made by the second respondent himself once again seeking cancellation of various sale deeds as mentioned in paragraph 9 of the affidavit filed in support of the writ petition. This Court has already taken a decision and made an observation as above against the second respondent for having approached this Court with unclean hands suppressing material facts before this Court and this Court had thought it fit to impose exemplary costs while dismissing the Writ Petition filed by the second respondent. When this Court has clearly expressed its reservation about the conduct of the second respondent, the second respondent with a clear aim of achieving collateral purpose, has vexatiously approached the first respondent for cancellation of various sale deeds.

11. This Court does not appreciate as to the basis of the notice issued by the first respondent in regard to the request made by the second respondent for cancellation of sale deeds particularly, the first respondent was well aware of lack of jurisdiction in him for cancellation of any sale deeds. In fact, the first respondent himself has originally reliaze the legal position and rightly directed the second respondent to approach the Civil Court for any remedy, but in the fact of such clear direction by the first respondent himself while disposing of the representation on 5.5.2016, once again how the first respondent in his subsequent proceedings, can call for the petitioners for enquiry in regard to cancellation of certain instruments registered particularly at the instance of the second respondent. As rightly contended by the learned counsel for the petitioners, the first respondent ought to have directed the second respondent to approach the Civil Court in case he has got any title dispute as between him and the petitioners and certainly, it is not open to the first respondent to call for any enquiry since such attempt by the first respondent in issuing the impugned notice would clearly amount to arbitrary exercise of power and acting at the instigation of the second respondent who is not a bona fide party. In case any enquiry



conducted in pursuance of notice dated 1.8.2018, that will only give a further handle to the second respondent to achieve his personal and collateral aim. The first respondent cannot allow himself to be involved in such a vexatious claim being advanced by the second and third respondents in this regard.

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12. This Court, as stated above, has clearly come down heavily on the conduct of the second respondent in regard to the same subject matter and that being the case, the first respondent cannot allow his office to be used for achieving undesirable ends of the second respondent. This Court is of the clear view that the impugned notice issued by the first respondent is clearly without any jurisdiction and same is colourable exercise of power and has to be interfered with.

13. For the above said reasons, the impugned proceedings in Na.Ka.No.3264/A3/2018 dated 1.8.2018 of the first respondent, are hereby set aside.

14. In the result, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The District Registrar (Administration),
District Registrar Office,
Dindigul Collectorate Buildings,
Velunachiyar Venue,
Dindigul-624 004.

• 1 CC TO Mr.V.KARTHIKEYAN , ADVOCATE IN SR No. 95933.

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Order in
W.P.(MD) No.19755 of 2018
19.11.2018