

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2019

Coram

The Honourable Mr.Justice D.Krishnakumar

W.P.No.49818 of 2006

and M.P.No.1 of 2006

S.N.Siva Shankar Rao (deceased)
 2. S.S.Gayatri Bai
 3. S.S.Manoj Kumar
 4. SS.Usha Rani
 (P2 to P4 are substituted as Lrs of the deceased
 first petitioner as per order dated 25.11.2015,
 in M.P.No.1 of 2013 of this W.P.)
 ...Petitioners

Vs.

1. The Sub Registrar,
 Sub Registrar Office,
 Hosur.
 2. Krishnappa
 3. Chenna Veerachari
 4. V.Ramappa
 5. The Deputy Superintendent of Police,
 Hosur, Krishnagiri.
 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to annul the sale deed registered as documents Nos.2037 of 2006 and 8471 of 2006 on 17.02.2006 and 17.07.2006.

For Petitioners : Mr.V.Raghavachari

For Respondent-1 : Mr.P.Purushothaman
 Government Advocate

For Respondents-2
 to 4 : No appearance

For Respondent -5 : Mr.B.Anand
 Government Advocate

O R D E R

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus, directing the first respondent to annul the sale deed registered as documents Nos.2037 of 2006 and 8471 of 2006 on 17.02.2006 and 17.07.2006.

2. The case of the petitioner, in short, is that the petitioner has purchased property, bearing Plot No.64, comprised in S.No.45/3, (now bearing New Sub Division S.No.45/3E at Govinda Agaharam Village, Hosur Taluk, by virtue of a sale deed, bearing Document No.633 of 1992, dated 10.02.1992, and he proposed to construct a residential building in the said property. Hence, the petitioner approached the Bank for loan, where, the Bank Authorities insisted for production of Encumbrance Certificate in respect of the property. Accordingly, the petitioner applied for the Encumbrance Certificate, but, to his shock and surprise, he came to know that the properties were sold in favour of one Krishnappa, the second respondent herein, by means of a forged sale deed dated 17.02.2006, bearing Document No.2037 of 2006. The petitioner further came to know that another sale deed dated 17.07.2006, bearing Document No.8471 of 2006 was said to have been executed by the said Krishnappa/second respondent through his Power Agent Chennaveerachari/third respondent, in favour of V.Ramappa/fourth respondent. The petitioner, having come to know of the fraudulent activities committed by the respondents 2 to 4, made a complaint to the first respondent and sought for cancellation of the aforesaid forged sale deeds, dated 17.02.2006 and 17.07.2006. Since the first respondent failed to take any action pursuant to such complaint, the petitioner is constrained to file this Writ Petition for the aforesaid relief.

3. The learned counsel appearing for the petitioner has submitted that, when the sale deeds dated 17.02.2006 and 17.07.2006, were executed by playing fraud based on some forged documents, and when the same has been brought to the knowledge of the first respondent, the first respondent is expected to verify into the genuineness of the documents and take action against the respondents 2 to 4 for playing such fraudulent acts and ought to have cancelled the forged sale deeds. Instead, the first respondent did not even respond to the complaint given by the petitioner, which was given way back in the year 2006, and kept silent for all these years, which would show that the first respondent is in some way, joined hands with the respondents 2 to 4 in executing such forged documents. Hence, the learned counsel prayed for appropriate orders, directing the first

respondent to annul the sale deed registered as documents Nos.2037 of 2006 and 8471 of 2006 on 17.02.2006 and 17.07.2006.

4. The learned Government Advocate appearing for the first respondent would submit that, petitioner has given the complaint before the first respondent/Sub Registrar, but, as per the Government Order, the District Registrar is the competent Authority to look into such complaint and pass orders. In support of such contention, the learned Government Advocate also produced a Circular issued by the Inspector General of Registration, Chennai, dated 31.07.2018, bearing No.41530/U1/2017 and by referring to para No.6, he submitted that the District Registrar, Krishnagiri is the competent Authority to deal with the petitioner's complaint. Therefore, he submitted that, this Court may direct the District Registrar, Krishnagiri, to enquire into the petitioner's complaint, and the petitioner may also be directed to submit the copy of the complaint, dated 05.09.2006, before the District Registrar, Krishnagiri.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate for the first and fifth respondents respectively. So far as the private respondents are concerned, viz., respondents 2 to 4, despite service of notice on them and their names being printed in the causelist, none appeared on their behalf.

6. This Court perused the circular issued by the Inspector General of Registration, Chennai, dated 31.07.2018, and in this connection, it would be beneficial to refer to relevant para from the said Circular, which is reproduced herein below:-

" 6. Hence, all the District Registrars are hereby directed to do the following:-

a) If fraudulent registration is proved, apart from directing the Registering Officers to file police complaints against the fraudsters, specific orders to be passed directing the Registering Officers for making entry in the relevant indexes and also in the copies of documents. The entry in index (ii) shall be made as 'The registration of document is found as fraudulent vide proceedings of the District Registrar (proceeding No. and dated to be noted) due to

----- (the findings to be given briefly). The same note has to be made as a foot note in the relevant copies of the documents filed and to be signed by the Registering Officer. If it is scanned document, then, the note has to be made in a separate white paper, signed by the Registering Officer and to be linked to the main document.

b) District Registrars in his/her proceeding should direct the Registering Officers that no registration of documents should be done based on the fraudulent document as declared by the District Registrar. But, the genuine owner of the property in question should be allowed to proceed with further registration irrespective of the occurrence of the fraudulent registration with respect to the said property.

c) District Registrars should add the following sentence in every order to be passed by them under circular issued vide reference third cited:-

" If the concerned party/ies, wishes, he/they can appeal to the Inspector General of Registration, 100, Santhome High Road, Chennai - 28, against this order within 60 days from the date of receipt of this order."

d) For the cases, in which, orders have been passed already, a separate letter shall be sent with a message that "if they are aggrieved by the order, they can file an appeal to Inspector General of Registration within 60 days from the date of receipt of this letter".

7. In view of the aforesaid circular, dated 31.07.2013, it is clear that the District Registrar is the competent authority to enquire into the complaint of the petitioner. The learned counsel appearing for the petitioner also agreed to submit a copy of the complaint, which was earlier preferred to the Sub Registrar/first respondent to the District Registrar, Krishnagiri.

8. In the light of the above, this Court is inclined to pass the following order:-

i) The petitioner is permitted to submit the copy of the complaint, dated 05.09.2006, to the District Registrar, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this order.

ii) In the meantime, the first respondent shall also forward the complaint, dated 05.09.2006, made by the petitioner to the District Registrar, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this order.

iii) As and when such complaint is received, either from the petitioner or from the first respondent, the District Registrar, Krishnagiri, shall conduct an enquiry in the light of the circular, dated 31.07.2013, by putting on notice to all the parties concerned and after affording an opportunity of being heard to all the parties, and shall pass appropriate orders, as expeditiously as possible.

9. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Sub Registrar,
Sub Registrar Office,
Hosur.
2. The Deputy Superintendent of Police,
Hosur, Krishnagiri.
3. The District Munsif,
Krishnagiri.

+1 cc to M/s.V.Raghavachari, Advocate Sr.No. 90815
+1 cc to The Government Pleader Sr.No. 91145 & 91122

AKM/18.12.19/5P-6C /

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