

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.No.1379 of 2019

1.Muthukumaran
2.Arunachalam

.. Appellants

vs.

1.The District Registrar,
Registration Department,
Tindivanam, Villupuram District.

2.The Sub Registrar,
Registration Department,
Tindivanam, Villupuram District.

3.E.Mangathal
4.E.Raji
5.M.Muniyammal
6.M.D.Muthu
7.Devi

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent Act against the order dated 03.12.2018 passed in W.P.No.14503 of 2018.

Prayer in W.P.No.14503 of 2018:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider and pass orders on merits by disposing the written representation made by the petitioner on 17.05.2018.

For Appellants : Mr.C.Prakasam

For Respondents

R1 & R2 : Mr.T.M.Pappiah
Special Government Pleader

R3 to R7 : No appearance

JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

Heard Mr.C.Prakasam, learned counsel for the appellants and Mr.T.M.Pappiah, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 2.

2.This appeal is directed against an order passed in W.P.No.14503 of 2018 dated 03.12.2018 filed by the appellants. The appellants sought for issuance of writ of Mandamus to direct the District Registrar, Tindivanam to consider their representation dated 17.05.2018 and pass orders on merits. In the representation, the appellants/petitioners have stated that the private respondents have fraudulently created certain documents and sold the property which was inherited by the appellant. The learned Single Bench dismissed the writ petition on the ground that the writ petition was bereft of particulars, the petitioners have not mentioned the date of sale or date of purchase and basic particulars have not been furnished either in the representation or in the affidavit filed in support of the writ petition.

3.We have perused the representation as well as the affidavit filed in support of the writ petition and fully endorse the view taken by the learned Single Bench that no particulars have been mentioned by the appellant and therefore, the learned Writ Court rightly rejected the relief sought for by the writ petitioners.

4.Mr.C.Prakasam, learned counsel for the appellants submitted that his clients have voluminous documents to prove the forgery and fabrication of documents and the respondents have engaged themselves in illegal acts and thereby depriving the appellant's rights to his property.

5.If such is the case, then nothing prevents the appellants to approach the competent Civil Court for necessary relief as the Civil Court is the appropriate forum which can decide the title to an immovable property and arrive at the proper conclusion. Furthermore, the disputed questions raised by the appellants before us needs to be established by oral and documentary evidence and this obviously cannot be done by the Writ Court nor can be done by the District Registrar, Tindivanam. It would be too dangerous proposition to lay down that a District Registrar can adjudicate title disputes, that too, when the dispute raised is too complicated as projected by the appellants. Therefore, the appellants should necessarily approach the Civil Court as observed by the learned Single Bench.

6. In view of the above, we find no reasons to interfere with the order passed by the learned Single Bench and hence, the writ appeal is dismissed. It is needless to state that dismissal of this appeal will in no manner prejudice the rights of the appellants when they move the Civil Court for necessary relief. In such an event, the Civil Court shall decide the case based on the oral and documentary evidence placed before it.

7. The learned counsel for the appellants placed reliance on the circular issued by the Inspector General of Registration in Circular dated 31.07.2018 which gives certain power for enquiring into fraudulent registration and the procedure that is required to be followed. We have our own doubts as to whether such a power can be conferred on a District Registrar especially after the decision of the Hon'ble Full Bench. Therefore, we make no observations on the effect of the circular.

8. The writ appeal is dismissed with the above observations. No costs.

Sd/-

Deputy Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

cse

To

1. The District Registrar,
Registration Department,
Tindivanam, Villupuram District.
2. The Sub Registrar,
Registration Department,
Tindivanam, Villupuram District.

+1 cc to Mr.C.Prakasam, Advocate, S.R.No.38362

+1 cc to the Government Pleader, S.R.No.38794

VD(CO)
SSM(12/06/2019)

W.A.No.1379 of 2019