

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.11.2019

PRONOUNCED ON : 21.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.18748 of 2019

R.Suriyakala

...

Petitioner

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai - 600 028.

2.The District Registrar,
Cuddalore District.

3.The Joint Sub-Registrar,
Chidambaram.

4.The Superintendent of Police,
Cuddalore District.

5.Mr.Babu

6.The Village Administrative Officer,
58C, Thandeswaranallur Village,
Chidambaram, Cuddalore District.

(RR4 to 6 impleaded vide
order dated 22.07.2019 in
W.M.P.No.20680 of 2019 in
W.P.No.18748 of 2019 by PDAJ)

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondents to take appropriate action on the complaint of the petitioner dated 07.04.2017 forwarded by the Revenue Divisional Officer, Chidambaram in his letter dated 30.06.2017 in accordance with the relevant provisions of Indian Registration Act, 1908 and also keeping in mind the various circulars issued by the Inspector General of Registration Chennai and more particularly to take into account consideration of the Circular

No.67, dated 03.11.2011 issued by the first respondent/Inspector General of Registration and other circulars, if any.

For Petitioners :Mr.A.Govindarajan for
Mr.L.Ramu

For Respondents 1 to 3 :Mr.T.M.Pappiah, Special
Government Pleader

For Respondents 4 & 6 :Mr.N.Inbanathan,
Additional Government Pleader

For 5th Respondent :Mr.A.Muthukumar

ORDER

The petitioner seeking direction to the Registration Department to take appropriate action on his complaint dated 07/04/2017 in accordance with the relevant provisions of Indian Registration Act, 1908 particularly, Circular No.67 dated 03/11/2011 issued by the Inspector of Registration and other circulars issued in connection with fraudulent registration of documents.

2.The petitioner claims thta she and her two daughters are the absolute owners of the 14 cents land comprised in S.No.193/2, Thandeewaranallur Village, Chidambaram, Cuddalore. She trace her title from the sale deed executed by one Govindasami Naidu in favour of Gurusamy Naidu vide doc. No. 3243/1925 dated 30/11/1925. According to the petitioner, Gurusamy sold the subject land to Pappammal on 12/10/1958 and Pappammal bequeathed the property to her son Ramadhayalan through a registered Will dated 07/02/1997. After the demise of Pappammal on 25/06/2000, the property devolved upon Ramadhayalan. During the life time of Ramadhayalan, he entered into an agreement of sale with one Mani on 29/01/2010 in respect of this property. Since, the agreement was not honoured, the said Mani filed a suit for specific performance before the Sub-Court, Chidambaram.

3.Pending suit, Ramdhayalan died on 29/12/2013 leaving behind his wife (the petitioner) and daughters. The petitioner pursued the litigation, the said suit O.S.23/2011 was decreed on 22/09/2017, but on appeal reversed in A.S.No.61 of 2017 by the 2nd Additional District Court, Chidambaram. In the judgment in A.S.No.61 of 2017, there is a reference that 3 cents out of 17 cents of land in S.No. 193/2 belongs to one Meera.

4.The allegation of the petitioner in her complaint dated 07/04/2017 is that, One S.Babu who own only 3 cents of land in the said survey number, fabricated false document and had registered 5 ½ cents land in 17 cents comprised under S.No.193/2. Hence, the said document has to be cancelled and 2 ½ cents of land to be retrieved from Babu and handed over to her. The complaint was given to the District Revenue Officer of Cuddalore. Who in turn forwarded the complaint to the Revenue Divisional Officer at Chidambaram on 21/04/2017 to look into the complaint and take action. The Revenue Divisional Officer in turn has forwarded the complaint to the Sub-Registrar, Chidambaram for necessary action. In this writ petition, alleging in-action on the part of the respondents 1 to 3, writ of mandamus is sought.

5.The petitioner subsequently filed W.M.P.No.20680/2019 to implead respondents 4 to 6 and same was allowed on 22/07/2019. In the affidavit accompanied with the implead petition, the petitioner has stated that the 5th respondent S.Babu is attempting to encroach upon their land armed with a fabricated document namely a sale deed stated to have been executed by one Janarthanam Ammal and Ramabai Ammal to and in favour of one N.Meera vide registered document No. 361/1993. Janarthanam Ammal and Ramabai Ammal are fictitious persons. They are no way connected with the land in S.No. 193/2. Based on a fabricated sale deed dated 16/09/1993 executed in favour of Meera as if her vendor (Janarthanam Ammal and Ramabai Ammal) had acquired title in respect of 5 ½ cents land by way of an unregistered agreement dated 14/07/1983, surreptitiously and fraudulently sale deed dated 16/09/1993 has been registered as document no. 361/1993 at Sub Registrar Office, Chidambaram. Later, in connivance with the Village Administrative Officer, revenue records were altered. Coming to know about the fraudulent act of the 4th respondent petition was given to District Revenue Officer which was forwarded to the Sub Registrar Office for necessary action routed through Revenue Divisional Officer.

6.In his affidavit the petitioner has also averred that, in this matter, a complaint to the Police was also given against the 5th respondent. The 4th respondent enquired the 5th respondent on 23/11/2018. The 5th respondent took time to produce parent documents but failed to produce and there after no progress in the complaint.

7.Countering the above averments, Babu, the 5th respondent has filed counter wherein he states that:-

"3. On merits also the above writ petition is not maintainable. According to the petitioner that the vendors of Meera namely Janartham Ammal and Ramabai Ammal are fictitious persons and they are no way connected to 17 cents in R.S.No.192/2, Thandeeswaranallur Village, Chidambaram. Her further case is that the sale deed executed by the said Janartham Ammal and Ramabai Ammal conveying 5 ½ cents to Meera under the registered sale deed dated 16.09.1993 is a fabricated one. On the other hand the petitioner has averred that the said Meera was entitled to 3 cents out of 17 cents in S.No.193/2 as per the decree passed in A.S.No.61 of 2017 by the II Addl. District Judge, Chidambaram as mentioned in para 9 of the affidavit filed in support of W.M.P.No.20680 of 2019. I submit that neither I nor Meera was a party to the said civil proceedings. It seems that the said suit was instituted by one Mani against the petitioner herein. Though the findings rendered in the said proceedings are not binding on me or Meera as we were not parties to the said proceedings, the petitioner is certainly bound by the said finding namely the predecessors in interest in Meera were entitled to 3 cents. Hence, Meeras' title under the said sale deed dated 16.09.1993 cannot be denied by the petitioner. On this ground alone the above writ petition is liable to be dismissed.

4. I submit that the petitioner has filed the above writ petition only on the basis of the findings of the civil Court in A.S.No.61 of 2017 which was disposed of on 22.09.2017 as averred by the petitioner in the affidavit filed in support of W.M.P.No.20680 of 2019. I submit that Meera has 5 ½ cents in the same survey number as her predecessors in interest had 5 ½ cents. I submit that the total extent of S.No.446 as stood prior to the assignment of new survey number was 22 cents. It is pertinent from the sale deed dated 13.11.1925. Hence the petitioner cannot maintain this Writ Petition as if the sale deed dated 16.09.1993 is valid for 3 cents and it is

fabricated for the remaining 2 ½ cents. Hence, the writ petition itself is misconceived and the same is liable to be dismissed.

5.The petitioner wants to grab the property of Meera which had been bequeathed to me under the registered WILL dated 14.12.2009. The WILL came into effect on her death.

6.I submit that the petitioner is trying to grab the property of mine by saying that my predecessor in interest, Meera, had only 3 cents not 5 ½ cents. There is no discrepancy with respect to extent in the sale deed dated 16.09.1993. Even assuming that there is a discrepancy with regard to extent, the remedy of the petitioner is only to approach the civil court and not the authorities or this Hon'ble Court under Article 226 of Constitution of India. On this ground also the above writ petition is liable to be dismissed as devoid of merits with exemplary cost."

8.To buttress his submission, the learned counsel appearing for the 5th respondent would rely upon the judgment of this Court rendered in P.Rukmani and others -vs- Amudavalli and others (2019 (6) MLJ 270).

9.On behalf of the official respondents, the 3rd respondent has filed counter affidavit, wherein, it is stated that the Revenue Divisional Officer has no authority to decide the ownership of the land in question and he cannot direct the joint registrar to cancel the sale deed duly registered. Further, the Courts have held that the registration authority has no authority to conduct enquiry about the title, he is bound to register the document under the Registration Act on compliance of other requirements.

10.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that, the petitioner is challenging the genuineness of a document registered on 16/09/1993 after 24 years. The Circular No.67 dated 03/11/2011

relied by the petitioner has been subsequently withdrawn. Under section 82 of the Indian Registration Act, the Registration Authority has power to enquire only in case of forgery or fraudulent presentation of document by impersonation or otherwise. As far as title dispute is concerned, the parties have to work out remedy only through Civil Court. Referring the judgment of rendered in Ramasamy -vs- State of Tamilnadu (2014 (4) CTC 627) and Satyapal Anand -vs- State of Madhya Pradesh and others (2016(10) SCC 767) the learned Additional Government Pleader submitted that the prayer of the petitioner to consider his representation/complaint dated 07/04/2017 is not maintainable. Section 82 of the Indian Registration Act reads as below:-

"82. Penalty for making false statements, delivering false copies or translations, false personation, and abetment.-Whoever-

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or

(b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan; or

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or

(d) abets anything made punishable by this Act, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both. State Amendments Goa:....."

11. Circular No.67 dated 03/11/2011 was issued by the Inspector of Registration in view of large number of petitions received by the Department alleging fraudulent registrations. The said Circular indicates the procedure to be followed to deal with the complaint relating to fraudulent registration or impersonation on production of false documents and evidence. While Sections 82 and 83 of the Indian Registration Act provides for power to take action and actions which could be taken in case of fraudulent registration, the Circular No.67 reiterates the procedure to be followed regarding complaints of fraudulent registration.

12.As far as the case of the petitioner is concerned, in the year 1993, one Meera fraudulently registered a document in respect of 5 ½ cents as if her vendor / Janarthanam Ammal and Ramabai Ammal have title over the said extent of the land while her vendor had no title. Subsequent to this fraudulent sale, the fifth respondent has transferred the title in his name based on the Will executed by Meera. It appears that the title of Meera incidentally discussed in A.S.No.61 of 2017 though the said Meera was not a party in that proceedings.

13.There is a contra claim regarding the title to the extent of 2 ½ cents of land. The document which is now doubted and alleged as a fabricated document is of the year 1993 and the complaint by the petitioner given only in the year 2017. The dispute regarding title is not within the domain of the Tahsildar or the Joint Registrar or the Revenue Divisional Officer.

14.This Court has time and again has held that the dispute regarding title has to be settled only through Civil Court and not by the Revenue Officials. As far as the allegation of fraudulent registration it falls to ground by petitioner own admission when the petitioner herself accepts that the fifth respondent is entitled for three cents as per the finding of II Additional District Court in A.S.No.61 of 2017, it amount to admission of the execution of the document (sale deed dated 17.09.1993) and only the extent is disputed. While the petitioner traces his title from one Gurusamy and the document of the year 1925, the fifth respondent traces his title based on an unregistered document dated 14.07.1981 and the sale deed dated 17.09.1993 and the subsequent Will of Meera in favour of the fifth respondent. This clearly discloses dispute regarding title and not a fraudulent registration of a document as alleged by the petitioner. Hence, this Court finds no merit in this writ petition. Accordingly, the writ petition is dismissed with liberty to the petitioner to work out her remedies before the Civil Court. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

jbm

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai - 600 028.

2.The District Registrar,
Cuddalore District.

3.The Joint Sub-Registrar,
Chidambaram.

4.The Superintendent of Police,
Cuddalore District.

5.The Village Administrative Officer,
58C, Thandeswaranallur Village,
Chidambram, Cuddalore District.

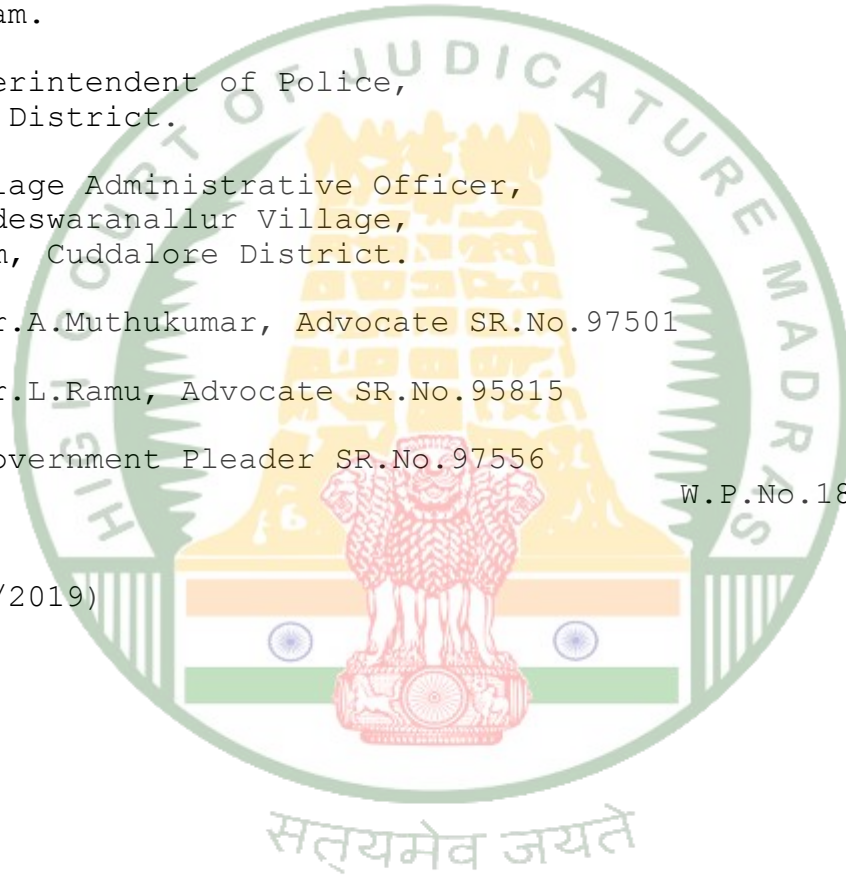
+1cc to Mr.A.Muthukumar, Advocate SR.No.97501

+1cc to Mr.L.Ramu, Advocate SR.No.95815

+1cc to Government Pleader SR.No.97556

W.P.No.18748 of 2019

PP(CO)
GMY(27/11/2019)



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