

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.26555 of 2019
and W.M.P.Nos.25927 to 25929 of 2019

T.Ashok

.. Petitioner

/versus/

- 1.The State of Tamilnadu,
Rep.by its Secretary,
Department of Registration,
Fort St.George,
Chennai-600 009.
- 2.The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai-600 004.
- 3.The Sub Registrar,
Selayur Sub Registrar Office,
Kancheepuram District.
- 4.The Inspector of Police,
Pallikaranai Police Station,
Pallikaranai,
Chennai-600 100.
- 5.The Inspector of Police,
Duraipakkam Police Station,
Duraipakkam,
Chennai.
- 6.Jaganathan Srinivasan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records impugned order in No.46943/C1/2018 dated 03.08.2019 on the file of second respondent herein and quash the same as illegal and direct the third respondent to register the sale deed of the petitioner dated 15.12.2017 in favour of selvam in accordance with law.

For petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.T.M.Pappiah.
Spl.Govt.Pleader for R1 to R3

Mr.N.Inbanathan
Addl.Govt.Pleader for R4 & R5

O R D E R

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned Additional Government Pleader for the respondents 4 and 5.

2. The point involved in this case is that the petitioner herein has presented the sale deed for registration based on the Power of Attorney deed executed by the 6th respondent. The Sub Registrar, Selaiyur has kept the registration pending based on the alleged complaint given by the 6th respondent.

3. According to the learned counsel for the petitioner, as per the circular of the Registration department in No.189/C1/2013 dated 02.02.2013, whenever sale deed is to be registered through Power of Attorney, the executor should present the life certificate to ensure the Principal is alive and the said life certificate is to be issued by the competent medical practitioner not later than 30 days from the presentation of the documents.

4. In this case the Power of Attorney was executed by the 6th respondent in favour of the writ petitioner on 14.05.2015. Later the sale agreement was presented on 05.12.2017 based on the life certificate for the principal issued by one Doctor Anuradha. After 10 days of the registration of the sale agreement, when the petitioner herein presented the sale deed for registration, the Sub Registrar has refused to register it and kept the documents as pending. The reason for not registering the documents appears to be the complaint petition given by the 6th respondent and the police complaint registered against the petitioner herein in Cr.No.2987 of 2017.

5. The representation given by the petitioner to the Inspector General of Registration complaining about the Sub Registrar refusal to register the deed. The said representation was not considered. Hence, the petitioner approached this Court in W.P.No.32106 of 2018 seeking mandamus to direct the Inspector General of Registration to consider the representation of the petitioner dated 18.10.2018 and register the sale deed of the

petitioner dated 15.12.2017. In this writ petition, this Court vide order dated 05.12.2018 passed the following direction:-

"5. Considering the facts and circumstances of the case and having regard to the submissions made, without going into the merits of the case, this Court directs the first respondent to pass orders on the representation of the petitioner dated 20.10.2018, on merits and in accordance with law, after issuing notice to the petitioner and the fifth respondent herein and also affording due opportunity of hearing to the petitioner, the fifth respondent herein as well as any of the interested parties, within a period of five weeks from the date of receipt of a copy of this order."

6. Thereafter, the Inspector General of Registration, after enquiring the petitioner, the 6th respondent and the Doctor who has issued the life certificate, passed order holding that the refusal of the Sub Registrar to register the sale deed presented by the petitioner is in order and the representation given by the petitioner cannot be agitated before the Inspector General of Registration by way of representation. If the petitioner is aggrieved, he can prefer an appeal to the District Registrar under Section 72(1) of the Registration Act. Further, the Inspector General of Registration has also instructed the District Registrar, Chennai to entertain the appeal if any filed in time. Aggrieved by the said order, the present writ petition is filed.

7. This Court need not probe into the genuineness of the life certificate questioned by the 6th respondent. From the records, this Court finds that a criminal case has been registered against the petitioner herein alleging forgery. In the said circumstances, the Sub Registrar, Selaiyur has refused to register the sale deed. Now through impugned order, the Inspector General of Registration has considered the representation of the petitioner and passed order recording the reason that if the petitioner is aggrieved by the act of Sub Registrar, he has appeal remedy under the statute, which right the petitioner has not exercised.

8. Since the disputed question of fact is involved, this Court is not inclined to entertain this writ petition and probe into the genuineness of the documents presented by the petitioner. More so, when the criminal case has already been initiated and the record reveals that the petitioner was arrested based on the complaint given by the 6th respondent. It is for the investigating agency to find out the truth and for the registration authority to act upon the document presented by the petitioner.

9. Hence the writ petition is disposed of with liberty to the petitioner herein either to approach civil Court for enforcement of the contract or to exercise his right of appeal as contemplated under Section 72(1) of the Act. If the petitioner opt to file statutory appeal then the time taken for pursuing his remedy before this Court by filing earlier writ petition and the present writ petition stands condoned. In such case, the petitioner shall present the appeal within 30 days from the date of receipt of copy of this order and the same may be entertained by the District Registrar, Chennai and after due enquiry appropriate orders shall be passed in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

- 1.The Secretary,
The State of Tamilnadu,
Department of Registration,
Fort St.George,
Chennai-600 009.
- 2.The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai-600 004.
- 3.The Sub Registrar,
Selayur Sub Registrar Office,
Kancheepuram District.
- 4.The Inspector of Police,
Pallikaranai Police Station,
Pallikaranai,
Chennai-600 100.
- 5.The Inspector of Police,
Duraipakkam Police Station,
Duraipakkam,
Chennai.

+1cc to Mr.R.Sankarasubby Advocate SR.76930
+1cc to the Government Pleader SR.77381

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LN(CO)
CB(15/10/2019)



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