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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.27992 of 2019

S.Zahir Hussain

.. Petitioner

Vs

1. The Inspector General of Registration
No.120, Santhome High Road
Foreshore Estate, Chennai - 600 028

2. The Director
Directorate of Vigilance & Anti-Corruption
No.293, MKN Road, Alandur
Chennai - 600 016

3. Shri. Ravichandren
The DIG of Registration
Office of Deputy Inspector General of Registration
Thirnelveli

4. Shrimathi Jaqlin
(then Sub-Registrar of Kayalpattinam
Office of Sub-Registrar of Kayalpattinam
Kayalpattinam, Tuticorin District
Pin: 628 204

5. Shri Prabhakaran
Sub-Registrar of Kayalpattinam
Office of Sub-Registrarr of Kayalpattinam
Kayalpattinam, Tuticorin District
Pin: 628 204

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to dispose the Representation/complaint dated 15.09.2018, 24.07.2019 and 06.08.2019 within the time frame fixed by this Court.



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For Petitioner : Mr.R.Sankara Subbu

For Respondents: Mr.T.M.Pappiah
Special Government Pleader for R1

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN, J]

By consent, this writ petition is taken up for final disposal.

2. This writ petition is filed by a practicing lawyer of this Court as a Public Interest Litigation. He claims to be the National Award holder in Adventure sports. He is also running a Trust "Rights Awareness Organization", a charitable Trust, bearing Registration No.838.

3. In the affidavit filed in support of this writ petition, the petitioner would state that one Abdul Razack, on an earlier occasion, filed a writ petition in W.P.(MD).No.23654 of 2018, for protection of the Government land and the common pathway in Survey Nos.807/1, 807/3 and 807/4 of Kayalpattinam from encroachers, who started promoting plots for sale under the name and style of M/s.Safre Garden and the private entity has entered their appearance and filed their counter. The petitioner would further state that the Tahsildar, Thiruchendur has also sent a reply in Na.Ka.A1/271/2019, dated 25.01.2019 to the Government Pleader, Madurai about the encroachment of Survey Nos.807/1, 807/3 and northern portion of Survey No.807/4 and communications have also been addressed to the Sub-Registrar, Kayalpattinam to prevent any future registration. It is also the case of the petitioner that the said officials have also confirmed the fact that the land in Survey No.807/3 is described as a common pathway as per records and despite that, the Registering Authority went on registering the documents, as if the lands are patta lands. The petitioner further states that he is a socially conscious citizen and one of the affected person, for the reason that he claims to be the owner of 57 cents of land adjacent to the said survey number. The petitioner, in this regard, has also sent a representation dated 24.07.2019 to the second respondent and yet another representation dated 06.08.2019 to the first respondent, pointing out the illegalities and irregularities especially with regard to the registration of the documents pertaining to said survey number. Despite receipt and acknowledgment, no action has been taken to address the grievance and hence, came forward to file this writ



petition styled as Public Interest Litigation.

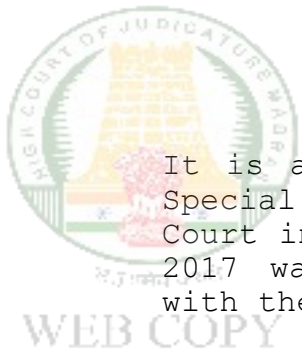
4. The writ petition was listed for admission on 30.09.2019. On that day, having gone through the matter, this Court found that materials with necessary particulars and supporting documents are lacking and therefore, granted opportunity to file the same. Accordingly, the writ petitioner has filed an additional affidavit dated 16.10.2019, which in the opinion of this Court, did not improve the case of the petitioner.

5. Mr.R.Sankara Subbu, learned counsel appearing for the petitioner has drawn the attention of this Court to the additional typed-set of papers dated 14.10.2019 and would submit that Encumbrance Certificates have been filed pertaining to lands in Survey Nos.267, 267/2, 113/1, 113/1A, 113/1B, 114/1, 267/1A, 267/2, 268/1, 268/2B, 1022, 1023/1, 1023/2A, 1023/2B, 1023/2C, 1092, 1093, 1038, 1039, 947, 988, 113/1, 113/1A, 114/1, 276/1, 263 which are situated in Kandhasamipuram and would state that admittedly that lands are classified as agricultural lands and despite that, registration is being done and duty is also caste upon Registering Authority to cause a verification as to the classification of the land before accepting the documents for registration and they failed to do so.

6. The learned counsel appearing for the petitioner submitted that as per the copy of Adangal, it prima facie appears that the land in old Survey No.468/1A is classified as pathway and despite that, registration being done and therefore, prays for appropriate orders.

7. Mr.T.M.Pappiah, learned Special Government Pleader accepts notice on behalf of the first respondent and would submit that report of the Deputy Inspector General of Registration, Tirunelveli was called for and he has also submitted a report No.4409/B1/2018 dated 12.09.2018, stating that Safire Garden layout has been formed on the village Natham lands and individual pattas have also been issued and the order passed by this Court in W.P (MD) No.23654 of 2018 filed by Abdul Razack before the Madurai Bench of this Court, was also taken into consideration and took a stand, if the Government lands have been registered after the enquiries conducted by the Revenue Authorities, it is for the concerned Authority to initiate appropriate action.

8. The learned Special Government Pleader, on a legal position, would submit that once the documents are registered, Registration Department lacks power or authority to cancel the same and only a competent Civil Court alone can cancel any registered document, as the facts stated and issue involved may require adjudication on disputed question of facts, which require evidence in the form of oral and documentary evidences.



It is also brought to the notice of this Court by the learned Special Government Pleader that as per the direction of this Court in W.P (MD) No.23654 of 2018, a Civil Suit in O.S.No.45 of 2017 was filed before the District Munsif Court, Tiruchendur with the similar prayer and the same is pending.

9. This Court has considered the rival submissions and also perused the materials placed before it.

10. Insofar as placing reliance on Adangal by the learned counsel appearing for the petitioner is concerned, a perusal of the same would indicate that it is an unauthenticated document and that apart, land in new Survey No.807 is correlated to Old S.No.468/1A, which are classified as site and one of the entires say that the land is classified as "pathway". It is not clear from the Adangal whether it is a poromboke pathway or public pathway and that apart, there appears to be some discrepancies for the reason that there is no corresponding new survey number given in the affidavit and that apart, though it is stated that there is a pathway in S.Nos.807/1, 807/3 and 807/4 as per the unauthenticated adangal, there is no material to show that the lands are classified as public pathway.

11. The authenticated or relevant document in the form of A-Register of the said village has not been produced before this Court and therefore, this Court is unable to place reliance upon the unauthenticated document.

12. Insofar as the allegation made as to the registration of the lands, which are classified as "agricultural lands" is concerned, once again no material whatsoever has been placed before this Court, except enclosing the encumbrance certificates, which do not throw any light to probablize or substantiate the allegations made by the petitioner.

13. The main affidavit as well as the additional and better affidavits filed are also bereft of any material particulars and that apart, admittedly all the lands are situated at Kayalpattinam, Thuthukudi District and the territorial jurisdiction of the same falls within the Madurai Bench of this Court and may be for the purpose of invoking the jurisdiction of this Court, the petitioner appears to have submitted a representation to the first respondent, which in the considered opinion of this Court, also bereft of any material particulars.

14. In the judgment reported in 2010 [3] SCC 402 [State of Uttaranchal Vs. Balwant Singh Chaufal and Others], the Hon'ble Supreme Court of India has also considered the issue relating to the Public Interest Litigation filed by a Lawyer and it is observed that "it was expected from a member of a noble



profession not to invoke the jurisdiction of the Court in a matter where the controversy itself is no longer res integra. The petitioner, a local practicing lawyer, ought to have bestowed some care before filing this writ petition as a Public Interest Litigation under Article 226 of the Constitution of India."

15. In the considered opinion of this Court, the petitioner, who claims to be a practicing lawyer, has failed to do home work and based upon insufficient particulars and unauthenticated document, chose to file this writ petition as a Public Interest Litigation.

16. This Court, in the light of the reasons assigned, is of the considered view that the present writ petition styled as "Public Interest Litigation" lacks merit and substance and deserves dismissal.

Accordingly, this writ petition is dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gpa

1. The Inspector General of Registration
No.120, Santhome High Road
Foreshore Estate, Chennai - 600 028

2. The Director
Directorate of Vigilance & Anti-Corruption
No.293, MKN Road, Alandur
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Kayalpattinam, Tuticorin District
Pin: 628 204

+1 cc to Government Pleader Sr.No. 97591

W.P.No.27992 of 2019

A.SK(07/01/2020)