

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34286 of 2018

and

WMP. Nos.39846 and 39850 of 2018

Water Fernandes,
No.1B, Ghar Apartments,
No.32, Church Street,
Bangalore 560 001. ... Petitioner

vs.

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai 600 004.

2.The District Registrar (Admin),
Krishnagiri District,
Krishnagiri.

3.The Sub Registrar,
Denkanikotai,
Krishnagiri District.

4.The Deputy Superintendent of Police,
Anti Land Grabbing Cell,
Office of Superintendent of Police,
Krishnagiri District.

5.Mr.Ivan D'souza .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the third respondent in proceedings Enquiry report No.1/2018 dated 12.11.2018 and enquiry order No.30.11.2018 and quash the same and consequently, direct the third respondent to conduct an enquiry in the circumstances leading to the execution of Document No.P-43/16 and the contents thereof in accordance with law based on the order of the High Court in W.P.No.30375 of 2018 within a timeframe fixed by this Court.

For Petitioner : Mr.L.P.Maurya

For Respondents : Mr.T.M.Pappiah for R1 and R2
Special Government Pleader

Mr.E.Balamurugan for R3 and R4
Special Government Pleader

O R D E R

This writ petition is filed challenging the order dated 30.11.2018 of the third respondent. Consequently, the petitioner also seeks for a direction to the third respondent to conduct an enquiry in the circumstances leading to the execution of the Document No.P-43/2016.

2. In this writ petition, the respondents 1 to 4 are being represented by the learned Government Pleader. Though notice to the fifth respondent was served privately and a proof affidavit is also filed to that effect, none appears for him and on the other hand, his name is printed in the cause list today.

3. The petitioner claims to be the absolute owner of the property referred to in the disputed document viz., Power of Attorney in P43/2016. The said power of attorney is said to have been executed by the petitioner in favour of the fifth respondent. The petitioner questioned the very execution and therefore, approached the third respondent and made a request to conduct an enquiry regarding the contents of the said document. As the said request was not considered, the petitioner approached this Court and filed W.P.No.4259 of 2017, seeking for a mandamus directing the respondents 1 to 3 therein to conduct an enquiry regarding the contents of the Document No.P43/2016 and release the same to the petitioner. The said writ petition was disposed of on 28.08.2018, by directing the third respondent to conduct an enquiry and thereafter, pass appropriate orders on merits and in accordance with law, after affording opportunity of personal hearing to the petitioner, the fifth respondent as well as the necessary parties. It seems that thereafter, the enquiry was conducted, wherein depositions were made by the parties. The petitioner herein sought for furnishing copy of the deposition made by the fifth respondent. As the said request was not considered, the petitioner once again filed Writ Petition No.30375 of 2018 and sought for a direction to the third respondent to furnish copy of the deposition of the fifth respondent and consequently, conduct enquiry in accordance with

the provisions of the Tamil Nadu Registration Act, 1908. An order came to be passed on 16.11.2018, with a direction to the third respondent to furnish a copy of the deposition of the fifth respondent to the petitioner and thereafter, to proceed with the enquiry, after issuing notice to the petitioner, the fifth respondent as well as any of the interested parties and pass orders on merits and in accordance with law. However, in the meantime, the third respondent through proceedings dated 14.11.2018, informed the petitioner that the deposition of the fifth respondent cannot be furnished to the petitioner, since no final order was passed in the enquiry. Even though he stated so in the said proceedings, the fact remains that already a final order dated 12.11.2018, which is impugned in this writ petition, was passed by the third respondent. Thereafter, in compliance of the order passed by this Court in W.P.No.30375 of 2018, the third respondent furnished the copy of the deposition to the petitioner through post on 26.11.2018.

4. Perusal of the above stated facts and circumstances would show that the third respondent has not conducted himself in proceeding with the enquiry in accordance with the order passed by this Court earlier in W.P.No.4259 of 2017 and W.P.No.30375 of 2018. When the final order was passed on 12.11.2018, it is not known as to how the proceeding dated 14.11.2018 was issued to the petitioner as if no final order was passed as on that date. In any event, when this Court has specifically directed the third respondent to furnish deposition copy to the petitioner and thereafter, to conduct an enquiry, the third respondent ought to have recalled the order already passed on 12.11.2018, impugned in this writ petition and thereafter, proceeded with the enquiry after furnishing the deposition copy of the fifth respondent to the petitioner. On the other hand, the third respondent failed to adhere to the directions issued by this Court in strict sense. Though a contempt petition is filed to punish the third respondent for his wilful disobedience in Cont. P.No.2747 of 2018, this Court, in order to give quietus to the matter, is inclined to set aside the impugned order and remit the matter back to the third respondent for passing a fresh order on merits and in accordance with law, after hearing the petitioner, the fifth respondent and other interested parties, once again, in view of the admitted fact that the deposition copy was furnished to the petitioner after passing the final order dated 12.11.2018. Therefore, any hearing of the petitioner or other persons before furnishing such copy of deposition may not be an effective hearing.

5. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the third respondent to pass fresh order on merits and in accordance with law, after hearing the petitioner,

the fifth respondent and interested parties, if any. It is made clear that any of the observations made in the earlier order, which is set aside by this court in this writ petition, shall not influence the mind of the third respondent. Such exercise shall be done by the third respondent within a period of four weeks. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Vri

To

- 1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai 600 004.
- 2.The District Registrar (Admin),
Krishnagiri District,
Krishnagiri.
- 3.The Sub Registrar,
Denkanikotai,
Krishnagiri District.
- 4.The Deputy Superintendent of Police,
Anti Land Grabbing Cell,
Office of Superintendent of Police,
Krishnagiri District.

+2 cc's to M/s.L.P.Maurya, Advocate SR.No.10284
+1 cc to The Government Pleader, SR.No.11408

KJ(CO)
CSL/18.02.2019

W.P.No.34286 of 2018

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