



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.3422 of 2019

and

W.M.P.No.2691 of 2019

S.Jesuraj

... Petitioner

Vs

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

2.The District Registrar,
Dindigul Registration District,
Dindigul.

3.The Tahsidar,
Nilakkottai Taluk,
Dindigul District.

4.The Sub Registrar,
Nilakkottai Sub Register Office,
Dindigul.

5.S.Arockiam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1, 2 and 4 herein to launch the criminal prosecution as per section 83 of the Registration Act 1908, on the basis of the petitioner's representation dated 13.05.2015 and appeal petition before the first respondent dated 10.10.2015 within the stipulated period fixed by this Court.

For Petitioner: Mr.R.Rajaraman

For R1 to R4 : Mr.M.Murugan

Government Advocate

For R5

: Mr.A.John Vincent

ORDER

The petitioner is aggrieved by the execution and registration of the settlement deed dated 27.05.2009 in favour of the fifth respondent herein. He gave a complaint invoking circular No.67 dated 03.11.2011 issued by the Inspector General of Registration. Since no action was taken, this writ petition came to be filed.

2. The learned Government Advocate appearing for the registering authorities informs the Court that the said Circular

No.67, dated 03.11.2011 has already been withdrawn.

3. The petitioner's counsel wants this Court to direct the registering authority to initiate prosecution under Section 83 of the Registration Act, 1908. Section 83 of the said Act reads as follows:-

"(1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class."

4. It only enables the registering authority to initiate action. The registering authority is not obliged to initiate action. If the petitioner is aggrieved by the acts committed by the fifth respondent, the petitioner is always at liberty to take action against the fifth respondent. The petitioner can also file a civil suit for cancelling the document in question. I am of the view that no relief can be granted in this writ proceedings. Keeping open the respective rights of the parties, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

Sub Assistant Registrar

To

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

2. The District Registrar,
Dindigul Registration District,
Dindigul.

3. The Tahsildar,
<https://hcservices.ecourts.gov.in/hcservices/>
Nilakkottai Taluk,
Dindigul District.



4.The Sub Registrar,
Nilakkottai Sub Register Office,
Dindigul.

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-54547[F] dated 18/03/2019)

+1 CC to M/s.SPL GP (SR-54747[F] dated 18/03/2019)

+1 CC to M/s.A.JOHN VINCENT, Advocate (SR-54676[F] dated 18/03/2019)

W.P. (MD) No.3422 of 2019

15.03.2019.

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