



WEB COPY

W.A.[MD]No.555 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2019

CORAM:

THE HONOURABLE DR.VINEET KOTHARI,

ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD]No.555 of 2019

and

C.M.P.[MD]No.4679 of 2019

V.Vinoliya : Appellant / Petitioner

Vs.

1.The Inspector General of Registration,  
Santhome High Road,  
Foreshore Estate, Chennai - 600 004.

2.The District Registrar (Administration),  
O/o. District Registrar of Registration,  
Tenkasi, Tirunelveli District.

3.The Sub-Registrar,  
Sub-Registrar Office,  
Melaneelithanallur, Sankarankovil Taluk,  
Tirunelveli District.

4.Muthammal : Respondents / Respondents

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order in W.P.[MD]No.24019 of 2018 dated 05.12.2018 on the file of this Court.

**Prayer in WP(MD). 24019/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari to call for the records in connection with the impugned order vide in No.1993/A2/2018 dated 20.11.2018 passed by the 2nd respondent and quash the same as void and unlawful.

For Appellants : Mr.F.X.Eugene

For Respondents 1 to 3 : Mr.M.Murugan  
Government Advocate

For Respondent No.4 : No appearance



**JUDGMENT**

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J**]

The appellant had purchased a piece of property from the fourth respondent Muthammal vide registered sale deed dated 15.04.2013. The said sale deed covered not only an item of property belonging to Muthammal but also that of her husband Vedamani. Muthammal's husband Vedamani had passed away. He was survived not only by his wife Muthammal but also the legal heirs of his pre-deceased son Xavier. But in the sale deed, dated 15.04.2013 it had been made to appear as if Muthammal was the absolute owner of the entire property conveyed under the said sale deed and that her husband Vedamani did not have any other legal heir.

2.Few years after the sale deed was registered, a complaint was made to the registering authority that Muthammal has been misled into executing such a document. The registering authority conducted an enquiry in terms of the circular dated 31.07.2018 and made an endorsement that the document in question is a fraudulent one. This endorsement made by the registering authority was put to challenge by the appellant in W.P.[MD]No.24019 of 2018. The said writ petition was dismissed by the learned single judge by the impugned order dated 05.12.2018. In the impugned order, the learned single judge had made the following observations:-

"6.From the proceedings of the second respondent, it could be seen that a petition has been filed by the vendor of the petitioner on 02.05.2018 and notice has been sent to the petitioner herein on 26.06.2018; 03.08.2018 and 27.08.2018. An enquiry was conducted by the second respondent, wherein the vendor of the petitioner has submitted that the petitioner's husband purchased the property as per document Nos.166/1967 and 377/1967 bearing house No.5/12, Thevarkulam Village, Vadavathalaivanpatti Sub Registrar Jurisdiction. The vendor of the petitioner viz., the fourth respondent herein had submitted that she had a son by name Xavier and he died on 10.04.2006 and her daughter-in-law and grand children are living at Chennai and now and then they visited the fourth respondent. The petitioner herein on the guise of stating that she will obtain a loan from the Women Self Group to the fourth respondent and also she will construct a toilet in her house, has got her thumb impression in the loan application and since she being uneducated and a Senior Citizen at the age of 78 years, the petitioner had fraudulently registered the sale deed and the same was brought into the knowledge of the fourth



respondent only in the year 2016 and hence, she has filed an application before the respondents herein.

7.The petitioner herein had given a statement that the fourth respondent is her adoptive mother and from the age of 1 ½ years, she has been living with the fourth respondent and on 15.04.2013, the fourth respondent has executed a sale deed in favour of the petitioner after receiving a sale consideration of Rs.1,85,000/- and only based on the daughter-in-law's compulsion, the fourth respondent herein has given a false complaint.

8.It could be seen from the documents that after the enquiry, the second respondent has passed the impugned order based on the circular dated 31.07.2018, which reads as follows:-

"பார்வை (4) ல் காணும் பதிவுத்துறைத் தலைவர் சுற்றறிக்கை எண்.41530/ரு1/2017 நாள்.31.07.2018-ன் பத்தி எண்.5-ல்

"Now it has come to my knowledge that speaking orders have been passed by District Registrars as per the circular 3<sup>rd</sup> cited. For the cases of proven fraud the further action from the department ends with directing the Registering officer to file police complaint against the fraudsters concerned. But the original owners could not register their documents since the fraudulent document appears in the Encumbrance Certificate as genuine registration. Due to these encumbrance entries, the real owners succumb to the pressure of the fraudsters and in fact these entries act as an encouraging factor for the fraudsters for repeating such instances."

மற்றும் பத்தி எண்.6-ல் :

"Hence, all the District Registrars are hereby directed to do the following:-

a)If fraudulent registration is proved, apart from directing the Registering Officers to file police complaints against the fraudsters, specific orders to be passed directing the Registering Officers for making entry in the relevant indexes and also in the copies of documents. The entry in Index (ii) shall be made as "The registration of document is found as fraudulent vide proceedings of the District Registrar (Proceeding no. and date to be noted) due to ----- (the findings to be given briefly)". The same note has to be made as a footnote in the relevant copies of documents filed and to be signed by the Registering officer. If it is scanned document, then the note has to be made in a separate



white paper, signed by the Registering Officer and to be linked to the main document.

b) District Registrars in his/her proceedings should direct the Registering Officers that no registration of documents should be done based on the fraudulent document as declared by the District Registrar. But the genuine owner of the property in question should be allowed to proceed with further registration irrespective of the occurrence of the fraudulent registration with respect to the said property."

எனக்குறிப்பிட்ட ள்ளது. "

3.The validity of the circular is not under challenge before us. The facts are also not in dispute. The petitioner does not dispute that Vedamani was survived not only by his wife but also two other legal heirs. At this stage, the learned counsel for the appellant would state that the appellant had filed O.S.No.176 of 2016, before the Principal District Munsif Court at Sankarankoil, seeking the relief of permanent injunction. The said suit came to be dismissed as not maintainable as the declaratory relief was not sought. The learned Counsel states that now he had sought to amend the prayer at the appellate stage.

4.Therefore, we dismiss this writ appeal declining to interfere with the order of the learned single judge by observing that the endorsement made by the registering authority as well as the character of the document in question will abide by the final outcome of the civil proceedings instituted by the appellant already, now pending in the appellate Court. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Inspector General of Registration,  
Santhome High Road,  
Foreshore Estate, Chennai - 600 004.

2.The District Registrar (Administration),  
O/o. District Registrar of Registration,  
Tenkasi, Tirunelveli District.



3.The Sub-Registrar,  
Sub-Registrar Office,  
Melaneelithanallur,  
Sankarankovil Taluk,  
Tirunelveli District.

+1 CC to M/s.F.X.EUGENE, Advocate ( SR-96725[F] dated 07/11/2019 )  
+1 CC to M/s.Special Govt.Pleader ( SR-96941[F] dated 08/11/2019 )

**JUDGMENT MADE IN**  
**W.A.[MD]No.555 of 2019**  
Dated: 07.11.2019

MR/MPK

SDS (18.12.2019) 5P 6C