



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.5684 of 2019

and

W.M.P.(MD)Nos.4486 and 15564 of 2019

WEB COPY

S.Subramanian

... Petitioner

vs.

1.The District Registrar(Admin),
District Registrar Office,
Thiruppathur Road,
Sivagangai District.

2.The Sub Registrar,
Madhagupatti,
Sivagangai District.

3.Venkatachalam

4.Michael Raj

5.D.Anandh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent vide proceedings Na.Ka.No.4010/E1/2018, dated 18.12.2018 and quash the same as illegal as devoid of merits and direct the first and second respondents to consider the petitioner's representation dated 17.12.2018, based on the latest Circular of I.G., of registration vide Circular No.41530/U1/2017, dated 08.11.2017 and vide Circular No.41530/U1/2017, dated 31.07.2018.

For Petitioner : Mr.Rajakarthikeyan

For Respondents : Mr.M.Murugan
Government Advocate
for R.1 and R.2

ORDER

Mr.Rajakarthikeyan, learned Counsel on record for the writ petitioner and Mr.M.Murugan, learned Government Advocate on behalf of the respondents 1 and 2 (official respondents) are before this Court.



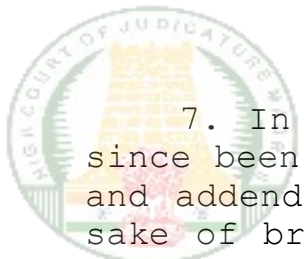
2. Respondents 3 to 5 are private respondents. Court notice has been sent to them, but, the cause list placed before this Court reveals that Court notice sent to respondents 3, 4 and 5 have been returned with endorsements 'not known', 'refused to' and 'unclaimed' respectively. This Court is informed that no one has entered appearance on behalf of respondents 3 to 5. Be that as it may, from the case file, it comes to light that an order making adequate safeguards qua rights (if any) of private respondents 3 to 5 can be passed. Therefore, with consent of aforementioned learned Counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Nucleus of this writ petition is an immovable property in the form of lands in Aralikotai Village within the jurisdiction of second respondent (Mathakupatti Registrar) and Sivagangai District comprised in seven different Survey Numbers being Survey Nos.15/1, 15/2, 15/3, 27/2A, 27/2B, 27/2C, 27/2D (hereinafter 'said land' for sake of brevity, clarity and convenience).

4. It is the case of writ petitioner that said land belongs to the writ petitioner; that writ petitioner entered into a sale agreement with respondents 3 and 4 being agreement dated 30.06.2011; that respondents 3 and 4 thereafter fraudulently executed a sale deed qua said land in favour of the fifth respondent being sale deed dated 08.03.2012, which has been registered as document No.436 of 2012 in the office of the second respondent, who is the jurisdictional Sub Registrar, as mentioned supra.

5. It is the specific and categoric case of writ petitioner that registered sale deed dated 08.03.2012 executed by respondents 3 and 4 as vendors and respondent No.5 as vendee is fraudulent and that the same ought not to have been registered. It is also not in dispute that writ petitioner came to know about the sale deed only when he kick started proceedings regarding registration of sale deed and it may not be necessary to advert to those proceedings in great detail as the said proceedings were under Circular No.67 dated 03.11.2011, which has admittedly been since withdrawn.

6. It is under the aforesaid circumstances that the first respondent has sent a communication dated 18.12.2018 bearing letter No.4010/E1/2018 (hereinafter 'impugned communication' for brevity) stating that the complaint of writ petitioner regarding registered sale deed dated 08.03.2012 cannot be entertained any further as aforesaid Circular No.67, dated 03.11.2011 has been since withdrawn.



7. In this backdrop, it is submitted that Circular No.67 has since been replaced by Circular No.41530/U1/2017, dated 08.11.2017 and addenda dated 31.07.2018 (hereinafter 'said Circular' for the sake of brevity, clarity and convenience). Learned State Counsel submitted that said Circular is now invoked and that any complaint of fraudulent registration will have to be dealt with in accordance with the procedures adumbrated in said Circular.

8. In the aforesaid backdrop, it is pointed out by learned Counsel for the writ petitioner that impugned communication has to necessarily be set aside as Circular No.67 has since been withdrawn and makes a further prayer that his complaint regarding registered sale deed dated 08.03.2012 may now please be enquired into in accordance with said Circular.

9. In the light of the obtaining position, as it is submitted without any disputation or disagreement that said Circular is in vague and the said Circular has now replaced Circular No.67, this Court is inclined to accede to the request of writ petitioner and therefore, the following order is passed:

(a) Impugned communication dated 18.12.2018 bearing Na.Ka.No.4010/E1/2018 is set aside. It is made clear that the impugned communication is set aside solely on the ground that Circular No.67 since withdrawn has been replaced by said Circular. In other words, no opinion or view has been expressed in this order on the merits of the matter;

(b) The first respondent shall now examine the complaint of the writ petitioner dated 21.03.2016 and subsequent representations in accordance with said Circular.

(c) Though obvious, it is made clear that while embarking upon this exercise of considering the writ petitioner's complaint dated 21.03.2016 qua said land, qua registered sale deed dated 08.03.2012, respondents 3 to 5 and all other persons/ entity / entities who is / are likely to be impacted, or whose interest is likely to be touched upon, shall be put on notice and give reasonable opportunity.

(d) The aforesaid exercise shall be completed by the first respondent as expeditiously as possible and in any event within a period of twelve weeks from the date of receipt of a copy of this order.

(e) The out come of enquiry shall be communicated by the first respondent to the writ petitioner and all other persons concerned including respondents 3 to 5 under due acknowledgment within seven working days from the date of



conclusion and pronouncing of the out come of the enquiry under the said Circular.

10. Writ Petition is allowed with the aforesaid set of directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

SSL

To

1.The District Registrar (Admin),
District Registrar Office,
Thiruppathur Road, Sivagangai District.

2.The Sub Registrar,
Madhagupatti,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-87237[F] dated 17/09/2019)

+1 CC to M/s.RAJA. KARTHIKEYAN, Advocate (SR-86978[F] dated 17/09/2019)

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