



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2019

CORAM:

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

W.P. (MD) No.24673 of 2018

A.Jinna

... Petitioner

Vs

1.The District Registrar (Admin),
District Registrar Office,
District Collectorate Complex,
Kokirakulam,
Tirunelveli District.

2.The Joint Sub Registrar,
Palayamkottai Sub Registrar Office,
Palayamkottai,
Tirunelveli District.

3.Atham Raja

4.Mohammed Rabeek

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to initiate necessary action to conduct enquiry as per the circular letter No.41530/U1/2017 dated 31.07.2018 of the Inspector General of Registration based on the petitioner's representation dated 13.07.2018 regarding the mortgage loan fraudulently obtained by respondents 3 and 4 herein by using the title deeds of the petitioner's property to fraudulently register the document No.5537/10 before the second respondent Office within a stipulated time frame.

For Petitioner: Mr.D.Selvaraj

For R1 & R2 : Mr.M.Murugan
Government Advocate

For R3 & R4 : Mr.V.Meenakshi Sundaram

ORDER



2. The petitioner wants an enquiry to be conducted by the first respondent in terms of Circular Letter No.41530/U1/2017 dated 31.07.2018. The property in question belonged to the writ petitioner and his parents. The claim of the respondents 3 and 4, who are the nephews of the writ petitioner, is that by an unregistered document dated 10.10.2003, the property in question was gifted in their favour. This was the written declaration confirming the earlier Hibba. Based on this document dated 10.10.2003, the respondents 3 and 4 availed loan from the Tamil Nadu Mercantile Bank. The mortgage deed was also presented before the second respondent and got registered.

3. The petitioner herein now claims that the signature attributed to him in the document dated 10.10.2003 is a forged one. He, therefore, wants an enquiry by the registering authority in terms of the aforesaid circular dated 31.07.2018. Since the petitioner's request was not acted upon, the present writ petition came to be filed.

4. The learned counsel appearing for the writ petitioner reiterated the contention set out in the affidavit filed in support of the writ petition.

5. I am unable to agree with the petitioner's submission. As rightly contended by the learned counsel appearing for the respondents 3 and 4, this is not a matter which would fall within the province of an enquiry of the registering authority. In effect, the petitioner questions the genuineness and validity of the document dated 10.10.2003. The said document was not even registered. Therefore, a document that was not registered cannot be the subject matter of enquiry at the hands of the registering authority.

6. Even assuming that the said document has been registered, still the remedy open to the writ petitioner is only to move the civil Court. The learned counsel appearing for the respondents 3 and 4 drew my attention to the decisions reported in **(**)2017(1) CTC 414 (Sathya Pal Anand Vs State of M.P and ors)** and **2018(6) CTC 241 (Kusum Lata Vs State of U.P. & Others)** (Full Bench decision of the Hon'ble Allahabad High Court) and decision **AIR 2019 Delhi 59 (Areness Foundation Vs. Government of NCT of Delhi and another)**.

7. The ratio laid down in the aforesaid decisions is that the registering authority has no power to recall or cancel the registration that has already been made. This would be the position even if fraud or impersonation is alleged. The learned counsel also pointed out that the Hon'ble Delhi High Court was concerned with a circular that is *pari materia* to the petition mentioned circular. Therefore, leaving open all the writ



petitioner's submissions and giving liberty to move the Civil Court, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

**(*) Amended as per order of this
Hon'ble Court dated 27.06.2019.**

Sd/-

Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar (CS)

() To be substituted the order
already despatched on 22.04.2019**

ias

To

1. The District Registrar (Admin),
District Registrar Office,
District Collectorate Complex,
Kokirakulam, Tirunelveli District.

2. The Joint Sub Registrar,
Palayamkottai Sub Registrar Office,
Palayamkottai,
Tirunelveli District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-54210[F] dated
15/03/2019)

+1 CC to M/s.SPL GP (SR-54776[F] dated 18/03/2019)

W.P. (MD) No. 24673 of 2018
14.03.2019

rmk

ES/DS/15.04.2019/3P/5C

PBK 16.07.2019 3P/5C