



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:04.09.2019
CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P. (MD)No.19199 of 2019
and
W.M.P. (MD)No.15561 of 2019

Chardrasekar

... Petitioner

vs.

1.The Inspector General of Registration,
Chennai-28.

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

3.The Sub Registrar,
Kadayanallur,
Tirunelveli District.

4.Sethuramalingam

5.Alwar

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to cancel the registration of settlement deed in Document No.2224 of 2019 on 20.05.2019 made on the file of the third respondent Sub Registrar based on the petitioner's complaint dated 22.07.2019 in view of the Circular issued by the first respondent in Letter No.41530/U1/2017, dated 31.07.2018 within stipulated time.

For Petitioner	: Mr.T.A.Ebenezer
For Respondents	: Mr.M.Murugan Government Advocate for R.1 to R.3

ORDER

Mr.T.A.Ebenezer, learned Counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate, who has accepted notice on behalf of respondents 1 to 3 (official respondents) are before this Court.

2. From the averments made, it emerges clearly that an order which does not impinge upon the rights of the respondents 4 and 5

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can be passed and the order can contain sufficient safeguards by directing prior notice and reasonable opportunity to be given to the respondents 4 and 5 before commencement of proceedings. In other words, it is made clear that this order is not adverse to the private respondents 4 and 5.

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3. To be noted, respondents 4 and 5 are private respondents. In this backdrop, with consent of learned Counsel on both sides, main writ petition itself is taken up.

4. Central theme / core issue in the instant writ petition is that a registered settlement deed being settlement deed dated 20.05.2019 executed by fourth respondent in favour of fifth respondent and registered as document No.2224/2019 on the file of third respondent (jurisdictional Sub-Registrar) (hereinafter 'said settlement deed' for clarity and brevity). It is the pointed and specific case of writ petitioner that said settlement deed has been executed fraudulently. To be precise, according to writ petitioner, said settlement deed has been executed by suppressing a civil Court decree, being decree dated 22.08.1943 made in O.S.No.342 of 1942, on the file of District Munsif Court, Tenkasi and a partition deed, being partition deed dated 25.10.1975. It is the further case of the writ petitioner that writ petitioner has interest in property which is subject matter of said settlement deed and that such interest of writ petitioner has been derived from the aforesaid civil Court decree and partition deed.

5. It is also pointed out that respondents 4 and 5 have deliberately suppressed the said decree and partition deed.

6. This Court makes it clear that no opinion or view is expressed on the aforesaid allegations and that the same have been set out only for the purpose of capturing bare minimum facts of the case which are required for disposal of instant case.

7. Furthering his case in this direction, learned Counsel for writ petitioner submitted that writ petitioner has given a petition which is in the nature of a complaint dated 22.07.2019 to the second respondent, second respondent has a statutory obligation to act in accordance with circular dated 31.07.2018 issued by the first respondent being circular bearing reference Letter No.41530/U1/2017. (hereinafter 'said circular')

8. Writ petitioner restricts his prayer / abridges the scope of instant writ petition and submitted that it will suffice, if there is a direction to second respondent to dispose of the aforesaid complaint in accordance with said circular.

9. Responding to the aforesaid submissions, learned State Counsel pointed out that in view of the abridged scope of instant writ petition, second respondent will examine the complaint on



merits *inter alia* by applying the said circular, subject to requisite parameters and determinants being satisfied. Learned State Counsel also very fairly pointed out that it is not for second respondent to decide on the title of the said property and that second respondent cannot adjudicate upon the title. In support of this submission, learned State Counsel placed before this Court a judgment of Honourable Supreme Court dated 26.10.2016 in **Satya Pal Anand Vs. State of Mathya Pradesh** made in Civil Appeal No.6673 of 2014, wherein Honourable Supreme Court had held that once a document is registered under the Registration Act, it is not open to the authority concerned to cancel the registration. There can be no quarrel over this proposition and this Court also notices that this safeguard has been built into the said circular itself vide paragraph No.3, wherein it has been made clear that enquiry will perambulate within the bounds of Section 68(2) of Registration Act 1908.

10. In the light of narrative thus far, this writ petition is disposed of with a direction to the second respondent to consider writ petitioner's petition/complaint dated 22.07.2019 by applying the said circular i.e., circular dated 31.07.2018 bearing reference Letter No.41530/U1/2017 and act in accordance with the circular. Though obvious, it is made clear that second respondent shall put the respondents 4 and 5 on notice before commencing any proceedings pursuant to the aforesaid complaint and also give reasonable opportunity to respond, in the light of said circular.

11. Second respondent shall complete the enquiry in the aforesaid manner within aforesaid bounds as expeditiously as possible and in any event within a period of eight weeks from the date of receipt of a copy of this order.

12. Outcome of the enquiry shall be communicated to writ petitioner as well as respondents 4 and 5 under due acknowledgement within seven working days from the date of decision.

13. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector General of Registration,
Chennai-28.

<https://hcservices.ecourts.gov.in/hcservices/>



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

3.The Sub Registrar,
Kadayanallur,
Tirunelveli District.

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-85211[F] dated 05/09/2019)
+1 CC to SPL GP (SR-85611[F] dated 06/09/2019)

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