



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

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W.P.(MD).No.3791 of 2017

K.N.P.Krishnan

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar,
Combined Registration Office,
Rajakambiram,
Thirumogur Road,
Y.Othakadai,
Madurai.

2.The Sub Registrar,
Sub Registrar's Office,
Registration Department,
Subramaniya Swami Kovil Street,
Peraiyur,
Usilampatti Taluk,
Madurai District.

3.Muthukumar

4.M.Raju

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Mandamus directing the Respondents 1 and 2 herein to initiate appropriate enquiry for cancellation and annul the fraudulent registration of sale deed executed by the 3rd respondent herein in favour of 4th respondent herein under Doc. Nos. 1124 of 2011, dated 21.02.2011, registered before the 2nd respondent herein by considering the petitioner's representation, dated 22.02.2017.

For Petitioner : Mr.S.Veeranasamy

For Respondents : Mr.M.Murugan for R1 and R2
Government Advocate

ORDER

This writ petition is filed for issuance of writ of Mandamus directing the Respondents 1 and 2 herein to initiate appropriate enquiry for cancellation and annul the fraudulent registration of sale deed executed by the 3rd respondent herein in favour of 4th



respondent herein under Doc. No.1124 of 2011, dated 21.02.2011, registered before the 2nd respondent herein by considering the petitioner's representation, dated 22.02.2017.

2.It is the case of the petitioner that the third respondent was the owner of the property, measuring an extent of 2.16 acres in S.No.404/1 of Kudiseri Village, Usilampatti Taluk, Madurai District. It is further stated that the third respondent who purchased the property by a registered sale deed, dated 20.03.2008, executed a General Power of Attorney in favour of the petitioner and that the petitioner is in enjoyment of the property. It is the case of petitioner that the third respondent received substantial consideration and executed a receipt for the same for conveyance of property in favour of the petitioner. It is admitted that the third respondent has subsequently executed a sale deed on 21.02.2011 in favour of one M.Raju for valid consideration. Stating that the subsequent sale deed, dated 21.02.2011, ignoring the Power of Attorney deed executed in favour of the petitioner is fraudulent, the petitioner has come forward with the present writ petition to direct the District Registrar and the Sub Registrar namely respondents 1 and 2 herein to conduct enquiry and initiate action for cancellation of fraudulent registration of sale deed executed by the third respondent in favour of fourth respondent.

3.The counter affidavit has been filed by the second respondent, stating that the registration of the sale deed cannot be cancelled as the member who executed a Power of Attorney deed is competent to deal with the property and execute the sale deed. Since there is no fraud on registration, the respondents 1 and 2 submitted that the allegations of the petitioner against the third respondent cannot be dealt with by the respondents 1 and 2 in exercise of power under the Registration Act.

4.Learned counsel appearing for the petitioner submitted that the subsequent sale deed executed by the third respondent in favour of fourth respondent is a fraudulent transfer and that therefore, the registering authority is competent to enquire into. The provision available under the Registration Act to deal with fraudulent Registration are only Sections 82 and 83 of the Registration Act.

5.Sections 82 and 83 of the Registration Act reads as follows:

82. Penalty for making false statements, delivering false copies or translations, false personation and abetment - Whoever -

(a) Intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or



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enquiry under this Act? or

(b) Intentionally delivers to a Registering Officer in any proceeding under [this Act or the rules made there under] 18 a false copy or translation of a document or a false copy of a map or plan? or

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act? or

(d) abets anything made punishable by this Act? shall be punishable with imprisonment of a term which may extend to seven years, or with fine, or with both.

83. Registering Officer may commence prosecutions

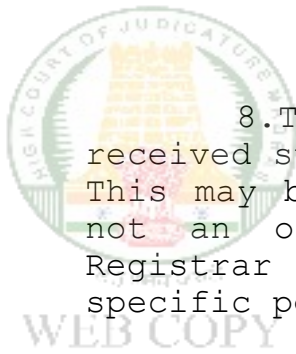
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(1) A prosecution for any offence under this Act coming to the knowledge of a Registering Officer in his official capacity may be commenced by or with the permission of the Inspector General, the Registrar, or the sub registrar, in whose territories, district or subdistrict, 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."

6. Sections 82 and 83 empowers the Registrar to conduct enquiry, where a party to the transaction makes false statement before the Registering Officer in any proceeding or enquiry under the Act. Similarly, the Section empowers the Registering Officer to deal with the situation, where the party to a transaction mislead the Registering Officer by giving false statement or translation of a document or false copy of map or plan. This is not a case where the Sub Registrar can conduct an enquiry.

7. The allegation against the third respondent is that the third respondent has executed a sale deed by himself ignoring the earlier Power of Attorney Deed executed in favour of the petitioner. The third respondent does not dispute the transactions as such. There is no necessity also before the Registering Officer to disclose the Registration of the Power of Attorney deed. The Power of Attorney deed is not a document of conveyance. It is only a deed authorizing the power agent to deal with the property. There is no provision under Registration Act or any other statute prohibiting the principal to execute sale deed or deal with the property in any manner, after registering a Power of Attorney deed.



8.The petitioner states that the third respondent has received substantial money as a sale consideration for the property. This may be a case of cheating attracting Section 420 of IPC, but not an offence under the Registration Act to empowering the Registrar to hold an enquiry. The petitioner may file a suit for specific performance if there was an agreement for sale.

9.In that view of the matter, this Court do not find any merit in the writ petition and this writ petition is dismissed. However, it is open to the petitioner to register a complaint, if he wants to prosecute the third respondent by establishing that the third respondent has committed any offence under the provisions of Indian Penal Code or file a suit for specific performance. No costs.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The District Registrar,
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Combined Registration Office,
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Sub Registrar's Office,
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Madurai District.

+1 CC to SPL.GP (SR-104661[F] dated 12/12/2019)

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MK (09.01.2020) 4P 4C