

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

WP.No.12754 of 2020

N. Venkatesh

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai puram,
Chennai 600 028.
2. The District Registrar,
Saidapet, Chennai-15.
3. The Sub-Registrar,
Office of the Joint- I.S.R.O.,
Saidapet, Chennai-15.

... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to make out/remove the entries in Index 2 or any other Index/Register with regard to the Settlement Deed dated 10.03.2014 in Document No.2774 of 2014 before the 3rd respondent, as null and void as per the order passed by this Court in CMA.No.4356 of 2019 dated 25.2.2020 and further direct the Respondents to make out/remove the entries in Index 2 or any other Index/Register with regard to consequent/subsequent transaction i.e. execution of a General Power of Attorney dated 17.3.2014 in Document No.2941 of 2014 before the 2nd respondent, as also null and void based upon the order passed by this Court in CMA.No.4356 of 2019 dated 25.2.2020 within a time frame that may be fixed by this Court.

For Petitioner : Mr.P. Dinesh Kumar
For Respondents: Mr.T.M.Pappiah,
Spl.Govt.Pleader

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the 2nd and 3rd respondent to make necessary entries in the encumbrance certificate pursuant to the

orders passed by this Court in C.M.A.No.4356 of 2019 dated 25.2.2020.

2. The grievance of the petitioner is that the persons who had absolutely no right over the subject property managed to obtain fraudulent legal heirship certificate and used the same for the purpose of execution of Settlement Deed. The petitioner approached this Court and this Court passed an order in C.M.A.No.4356 of 2019. The relevant portions in the order is extracted hereunder;

' 3. In support of his claim, the Appellant, in paragraph 17 of the Grounds of Appeal, has relied on a Legal Heir Certificate dated 18.06.1990 to state that, his mother viz. U.Thirupurammal is one of the legal heirs of Late R.Kandasamy Gramini.

4. Learned counsel appearing for the 1st Respondent herein pointed out that, the Legal Heir Certificate dated 18.06.1990 issued by the Tahsildar, Mylapore-Triplicane Taluk vide D.Dis (C)/6487/90 is a forged one, apart from the fact that, nine legal heirs enlisted in the said Legal Heir Certificate are not the true legal heirs of Late R.Kandasamy Gramini.

5. In the Legal Heir Certificate dated 18.06.1990 vide D.Dis (C) /6487 / 90 issued by the Tahsildar, Mylapore-Triplicane Taluk, furnished at page 18 of the Typed Set of Papers filed by the 1st Respondent, along with the Settlement Deed dated 10.03.2014, it is stated that, R.Kandasamy Gramini, who was residing at No.2, Virupachi Eswaran Koil Street, Mylapore, Chennai-4, expired on 31.05.1970.

6. The capital of the State of Tamil Nadu was re-christened as 'Chennai' from 'Madras' only in the year 1994. In the said Legal Heir Certificate issued in the year 1990, the residential address of Late R.Kandasamy Gramini is mentioned as 'Chennai', instead of 'Madras'. Also, the seal of the Tahsildar, Mylapore-Triplicane Taluk, indicates 'Chennai', though the Letter Head of the Legal Heir Certificate indicates the Revenue limit as 'Taluk Office, Mylapore-Triplicane, Madras 600 028'. Prima facie, the said Legal Certificate appears to be a forged and fabricated one.

7. In this regard, this Court, on the earlier date of hearing, asked Mr.T.M.Pappiah, learned Special Government Pleader, to enquire on the genuineness of the alleged Legal Heir

Certificate. Today, he produced a communication dated 24.02.2020 received from the Tahsildar, Mylapore Taluk, Chennai-600 028, wherein, it is stated that the alleged Legal Heir Certificate is not genuine. The said communication is taken on record. For better understanding, contents of the communication dated 24.02.2020, are reproduced hereunder:

From:	To:
The Tahsildar,	The Special Government
Pleader,	
Mylapore Taluk,	High Court of Madras,
Chennai - 28.	Chennai - 108.

L.Dis.A4/1178/2020, dated 24.02.2020
Sir,

Sub : Legal Heir Certificate - Chennai
District - Mylapore Taluk -
Genuineness Report furnished -reg.
Ref : Telephone Message from Special
Government Pleader, dated 23.02.2020.

* * * * *

In the reference cited, it is requested the Genuineness of Legal Heir Certificate D.Dis. (C)/ 6487/9064, dated 18.06.1990. In this regard, it is informed that the above Certificate is not genuine.

Yours faithfully,

Tahsildhar,
Mylapore Taluk,

Enclosure - Fake Certificate xerox Chennai - 28.

8. Ms.P.Kritika Kamal, learned Government Advocate (Criminal Side) was also asked to enquire on the complaint, if any, lodged by the 1st Respondent against the fraudsters in the case on hand.

9. Today, learned counsel for the Appellant fairly submitted that, he advised his client not to pursue this Appeal any further, as there are no bonafides in this case. On instructions, he sought permission of this Court to withdraw this Appeal with liberty to the Appellant to proceed further.

10. Though, this Court accepts the fairness of the learned counsel for the Appellant, the conduct of the Appellant in relying upon a forged and fabricated Legal Heir Certificate to prove his claim is reprehensible. As the

Appellant has approached this Court with unclean hands, this Court is not inclined to permit him to withdraw this Appeal. Moreover, the fabricated Legal Heir Certificate will have a bearing on all the litigations connected to the case on hand, pending before various forums.

11. Hence, this Court is inclined to dismiss this Appeal on the sole ground of fraud play by the Appellant, with costs. However, this Court refrains from imposing costs, only on account of the fairness expressed by Mr.S.Xavier Felix, learned counsel for the Appellant.

12. As the alleged Legal Heir Certificate is furnished along with the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, the Settlement Deed becomes void. The Revenue Department, based on the communication dated 24.02.2020 sent by the Tahsildar, Mylapore Taluk, Chennai, shall make entries in the necessary Index with regard to the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, as 'null and void', within five working days from the date of receipt of a copy of this order.

13. At the end of arguments, Mr.T.M.Pappiah, learned Special Government Pleader ensured that, necessary enquiry will be made as regards issuance of the forged Legal Heir Certificate and disciplinary action will be taken against the staff concerned.

14. Also, Mrs.P.Kritika Kamal, learned Government Advocate (Criminal Side), ensured that, speedy action will be taken by the Police Department against the fraudsters involved in this case.

15. If the legal heirs enlisted in the forged Legal Heir Certificate or the person who sought issuance of such Legal Heir Certificate are alive, criminal action shall be proceeded against them, so that the issue is brought to a logical end. The Criminal Court shall impose imprisonment and not let them go only with payment of fine. This is to signal all the fraudsters that, Law is strict and imprisonment is the only way to punish them for their fraudulent act.

16. This Court makes it clear that, if the person responsible for issuance of the alleged Legal Heir Certificate is still in service, necessary enquiry shall be made against him/her and terminal benefits, if not already granted, shall not be disbursed, till the issue comes to a logical end.

This does not mean that, he/she is exonerated from criminal proceedings.

17. Action taken by the Police Department as well as the Departmental action initiated against the staff, who are responsible for fabrication of the Legal Heir Certificate bearing D.Dis.(C)/6487/9064, dated 18.06.1990, shall be reported to this Court. Only on the aspect of criminal action and departmental proceedings, Registry is directed to list this matter 'for compliance' before this Court, in July 2020.'

3. Pursuant to the above order, the Tahsildar by proceedings dated 7.8.2020, cancelled the patta and restored the Revenue Records to its original position. The petitioner made a representation to the 2nd and 3rd respondents on 9.3.2020 to cancel the earlier entry made in the encumbrance certificate with regard to the Settlement Deed since the document itself has been referred by this Court as null and void in the order passed in C.M.A.No.4356 of 2019, which has been extracted above. Since this representation was not acted upon, the present Writ Petition has been filed before this Court seeking for appropriate orders.

4. Heard Mr.Dinesh Kumar, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Spl. Govt. Pleader appearing for the respondents 1 to 3.

5. Taking into consideration the facts and circumstances of the case and also of the fact that this Court has already referred the Settlement Deed as null and void in the orders passed in C.M.A.No.4356 of 2019, there shall be a direction to the 3rd respondent to register the order passed by this Court in C.M.A.No.4356 of 2019 dated 25.2.2020. By such registration, the earlier entry that was made at the time of registering the Settlement Deed gets automatically reversed. This process shall be completed by the 2nd and 3rd respondents within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the 2nd and 3rd respondents along with a copy of this order.

5. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai 600 028.

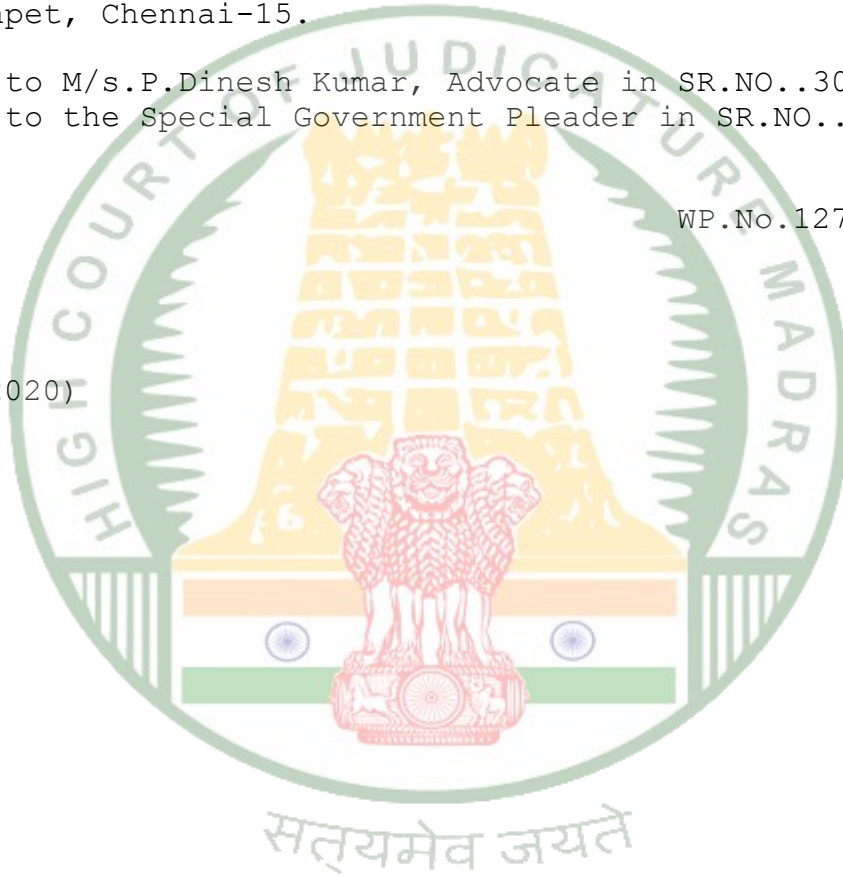
2. The District Registrar,
Saidapet, Chennai-15.

3. The Sub-Registrar,
Office of the Joint- I.S.R.O.,
Saidapet, Chennai-15.

+1cc to M/s.P.Dinesh Kumar, Advocate in SR.NO..30572
+1cc to the Special Government Pleader in SR.NO..30407

WP.No.12754 of 2020

RP(CO)
RV(01/10/2020)



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