



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

W.P. (MD) No. 984 of 2020

K.Pandi

... Petitioner

vs.

1. The District Registrar,
Madurai North,
Y.Othakkadai, Rajagambeeram,
Madurai District.
2. The Sub Registrar,
Alanganallur, Madurai District.
3. Amirtham
4. Nallammal
5. Chandra
6. Saratha
7. Amutha
8. Dhanalakshmi
9. Parameswari

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to dispose the petitioner's appeal, dated 07.05.2016 within time stipulated by this Court and cancel the fraudulent registration vide Document No.1336/2016, dated 07.04.2016 registered by the second respondent, executed by the respondents 3 to 9.

For Petitioner : Mr.D.Selvanayagam

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

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the first respondent to dispose the petitioner's appeal, dated 07.05.2016 within time stipulated by this Court and cancel the



fraudulent registration vide Document No.1336/2016, dated 07.04.2016 registered by the second respondent, executed by the respondents 3 to 9.

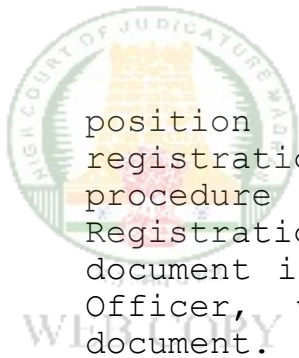
2. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner claims title to certain properties by virtue of a registered sale deed, dated 29.10.2010 executed by his wife. It is stated by the petitioner that the properties purchased by him from his wife belonged to the petitioner's wife by way of a family arrangement. It is the case of the petitioner that the revenue records were mutated in the name of petitioner and that the second respondent, despite objection from the petitioner to the effect that others should not be permitted to encumber or deal with the property, registered the document executed by respondents 3 to 9 on 07.04.2016. It is the further case of the petitioner that the respondents 3 to 9 have fraudulently executed a partition deed on 07.04.2016 excluding the petitioner's wife. It is admitted that respondents 3 to 9 in the present Writ Petition are the sisters of petitioner's wife. The petitioner states that the partition deed entered into / executed by them is fraudulent.

4. The contention of the petitioner is that the petitioner's title has been recognised by the revenue officials by granting patta in favour of the petitioner's wife under the Tamil Nadu Patta Pass Book Act 1983, and that the registration of the fraudulent document should be cancelled by the first respondent, before whom, an appeal was filed by the petitioner.

5. The learned Counsel for the petitioner relied upon a circular issued by the Inspector General of Registration, dated 08.11.2017. By the circular, dated 08.11.2017, the Inspector General of Registration has given certain guidance relating to the procedure to be followed, when a compliant is received warranting an enquiry under Section 68(2) of the Registration Act 1908. In the circular, the Inspector General of the Registration has referred to several precedents of Honourable Supreme Court as well this Court, dealing with the power conferred on the Registrar under Section 68 of the Registration Act 1908 as well as the scope of enquiry and the power of Registrar or Inspector General of Registration to cancel the registration of a document.

6. It is seen that the Inspector General of Registration has referred to the principles reiterated by Honourable Supreme Court and this Court. It is made clear that the Registrar while exercising his power under Section 68(2) of the Registration Act 1907 cannot refuse to register any document, if the document complies with statutory requirements and other formalities. It is indicated that even the Inspector General of Registration has no power to cancel the registration of any document. Despite reiterating the legal



position that the Registering Authority cannot cancel the registration of a document, which was already registered, a procedure has been formulated by the Inspector General of Registration, to register the complaint and to hold an enquiry, if a document is registered playing fraud or found that the Registering Officer, without adhering to formalities, had registered the document.

7. The learned Counsel for the petitioner relying upon the circular submitted that a direction should be issued to the District Registrar to dispose of the appeal in terms of the circular. The learned Counsel for the petitioner himself admitted that the first respondent is not supposed to decide the question of title. In the present case, the fraud alleged against the respondents 3 to 9 is that they have registered a document without impleading the petitioner's wife, who is their sister. In fact, the petitioner claims ownership / title in respect of the property on the basis of a sale deed, dated 29.10.2010 executed by his wife in his favour. Even in the title document, the source of title for the petitioner's wife has not been stated. Though the petitioner states that his wife derived title to the property on the basis of a family arrangement, no document is produced before this Court or referred to in the sale deed executed by his wife in favour of the petitioner about the source of title. It is in the said circumstances, this Court is of the view that the dispute is only with regard to title.

8. When the learned Counsel for the petitioner himself admitted that the question of title cannot be decided or gone into by the first respondent, the representation of the petitioner for cancellation of the registration of a document, based on assumption of title, cannot be decided by the Registrar in exercise of his power either under Section 68 or under Section 83 of the Registration Act 1908. Hence, this Court cannot issue a Writ of Mandamus, when the first respondent is not under any legal or statutory obligation to consider the representation of the petitioner. In other words, a direction cannot be issued by this Court to cancel the registration of a document by assuming petitioner's title. In that view of the matter, this Court finds that the Writ Petition is devoid of merit.

9. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

1. The District Registrar,
Madurai North,
Y. Othakkadai, Rajagambeeram,
Madurai District.

2. The Sub Registrar,
Alanganallur, Madurai District.

+1 CC to M/s. D. SELVANAYAGAM, Advocate (SR-2362 22/01/2020)

W.P. (MD) No. 984 of 2020
21.01.2020

cmr

SDS (05.02.2020) 4P-4C