



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

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W.P. (MD) No.13410 of 2020
and W.M.P. (MD) No.11191/2020

- 1.Avtar Singh
- 2.Dhirender Dua
- 3.Parminder Singh
- 4.Navneet Singh
- 5.Sunil Kumar Pandey

... Petitioners

-Vs-

- 1.Darwin Bosco
- 2.Paul Vinoth
- 3.Marimuthu
- 4.N.Amodkumar
- 5.Bakeer Mytheen

- 6.Branch Manager,
ICICI Bank,
Tuticorin.

- 7.Vijay Anand
- 8.Vinothkumar
- 9.Mahesh Prabha

- 10.The Sub Registrar,
Gangaikondan

- 11.The Sub-Registrar,
Mukkudal Taluk
Tirunelveli District.

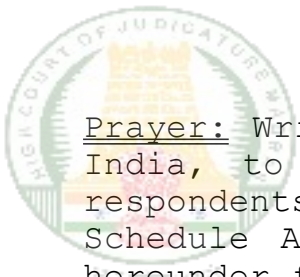
- 12.The District Registrar,
Tirunelveli District.

- 13.Kala
Former Sub Registrar,
Gangaikondan and Mukkudal
Tirunelveli District.

- 14.The Sub Registrar,
Vilathikulam
Thoothukudi District.

... Respondents

(R13 and R14 have been impleaded as per
the order of this Court dated 23.11.2020
made in WMP(MD) No.13517/2020)



Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus to direct the 10th and 11th respondents to cancel the registration of the deeds mentioned in Schedule A and B and direct removal of the entries of documents hereunder from encumbrance register.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.K.Sathiya Singh for R10 to R 12
and R 14

Additional Government Pleader

No appearance for R1 to R5,9

Mr.J.Alaguram Jothi for R6

Mr.G.Prabhu Rajadurai for R7 & R8

Mr.R.Maheswaran for R13

ORDER

The writ petition has been filed for a direction to the 10th and 11th respondents to cancel the registration of the deeds mentioned in Schedule A and B and direct removal of the entries of documents hereunder from encumbrance register.

2.It is the case of the petitioners that through registered sale deeds, the petitioners became the absolute owners of some of the lands at Nagalapuram Village, Vilathikulam Taluk. While so, the respondents 1 to 9 fabricated false documents and registered documents before the 10th and 11th respondents, which are mentioned in Schedule A and Schedule B respectively. On the complaint preferred, the 12th respondent passed an ex parte order declaring some of the documents are null and void. Further, the 12th respondent issued notification to the respondents 10 and 11 to notify that the documents are registered by impersonation. While so, in the encumbrance certificate, the notification of the 12th respondent dated 05.05.2020 has been reflected. In order to cancel the registration of the deeds mentioned in Schedule A and B and direct removal of the entries of documents hereunder from encumbrance register, the petitioners are before this Court with this writ petition.

3.When the matter was taken up for hearing, the respondents 10 and 11 have filed counter stating that the respondents 1 to 5 have impersonated and created documents and 12th respondent has cancelled the forged documents on 22.04.2020.

4. It is represented by the respondent Bank that based on the documents produced, properties have been mortgaged and MoU has also been entered.

5. It is represented by the respondents 7 and 8 that they are the *bona fide* purchasers of the property in question and that the petitioners have already filed a criminal case and hence, the criminal Court alone will decide the matter.



6. I have considered the rival submissions.

7. In view of the above, the official respondents are expected to ensure that proper entries are made not only in the register but also in the patta. That apart the Government is expected to initiate departmental action against the official concerned. Even though, according to the learned counsel for the 13th respondent, she is not at all responsible, this Court is not inclined to make any averments on the issue in question, as it is for the criminal Court and the department to decide, whether the impleaded respondent has got a major role to play in the fraudulent transaction. Similarly, any defence taken by the Bank that also to be taken note of by the Court concerned.

8. The criminal case has to be proceeded with and has to be brought to a logical end and the concerned Court shall take the matter on day-today basis without adjourning the matter beyond fifteen working days. In case, if it is found that there is fraudulent transaction, this Court is of the view that the police are entitled to take the accused into custody for investigation. Unless otherwise a strong signal is given, offence under Section 420 IPC cannot be curtailed.

9. This Court is not rendering any finding to the effect that the impleaded Sub Registrar has got a role to play in the registration. The bona fide purchasers are the respondents 7 and 8 and similarly, this Court is not rendering any finding with regard to the *bona fide* purchasers. If the so called *bona fide* purchasers have got any grievance, it is open to them to agitate the same before the appropriate forum. The said observation with regard to the impleaded respondents need not be taken as a direction. Further, it does not mean that a clean chit has been given. It is made clear that pendency of the civil suit, if any initiated by any one, is not a bar for the criminal proceedings to be stalled.

10. With the above observations and directions, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for

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



official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Registrar,
Gangaikondan

2.The Sub-Registrar,
Mukkudal Taluk
Tirunelveli District.

3.The District Registrar,
Tirunelveli District.

4.The Sub Registrar,
Vilathikulam
Thoothukudi District.

+1 cc to Mr.R.MAHESWARAN ,Advocate, SR No. 22594

+1 cc to Mr.G.PRABHU RAJADURAI ,Advocate, SR No.22708

+1 cc to Mr.J.ALAGURAMJOTHI ,Advocate, SR No.22781

+3 cc to Mr.S.SURESH ,Advocate, SR No.22563

+1cc to M/s.Special Government Pleader, SR No.22617

Order made in
W.P. (MD) No.13410 of 2020
23.11.2020

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VR (CO)

KK(08.01.2021) 4P 12C