



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.16324 of 2020

T.Kasthuri

... Petitioner

Vs.

1.The Deputy Inspector General (Registration)
Deputy Inspector General (Registration) Office,
Johns School Back side,
Palayamkottai
Tirunelveli.

2.The District Registrar (Registration)
District Registrar Office,
Johns School back side
Palayamkottai, Tirunelveli.

3.The Sub Registrar,
Office of Sub Registrar
Kangaikondan
Tirunelveli.

4.The Sub Registrar,
Kalakadu Sub Registration Office,
Tirunelveli.

5.S.Nambirajan

6.N.Ramalakshmi

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd respondent to take appropriate action and for making entry against the settlement deed registered as document NO.198/2020 dated 28.01.2020 in the office of the Sub Registrar, Kangaikondan executed by the 5th respondent to his wife 6th respondent herein and the property is situated at Padalayarkulam Village in Survey No.709/2 and Survey No.733 to the total extent of 3 acres and one cent 1 and which is come under the Sub Registration District, Kalakadu and to complete the proceedings of the 2nd respondent made in Na.Ka.No.2086/E2/2020 as well as the petitioner's representation dated 02.07.2020 to be considered by the respondents within the stipulated time that may be fixed by this Court.

For Petitioner : Ms.K.Abiya

For Respondents : Mr.K.Sathiyar Singh for R1 to R4
Additional Government Pleader



O R D E R

The present writ petition has been filed for a mandamus to direct the 2nd respondent to take appropriate action against the 5th respondent as well as for a direction to consider the representation of the petitioner dated 02.07.2020 within the stipulated time that may be fixed by this Court.

2.Since no adverse order is going to be passed against the respondents 5 and 6, notice to the respondents 5 and 6 is dispensed with.

3.According to the petitioner, from the date of purchase, the petitioner is in possession and enjoyment of the property in S.Nos.709/2 and 733 with regard to 46 and 2 acres and 55 cents respectively. While so, certain entries have been made through the settlement deed dated 28.01.2020 by the fifth respondent in favour of his wife 6th respondent. For taking action against the 5th respondent, the petitioner made a representation to the 2nd respondent on 02.07.2020. Since the said representation has not been considered, the petitioner is before this Court with this writ petition.

4.The learned counsel appearing for the petitioner has drawn the attention of this Court to Section 83 of the Act and would submit that as per Section 83 of the Act, the registering officers have the power to file the criminal case against the person, who involved in fraudulent registration.

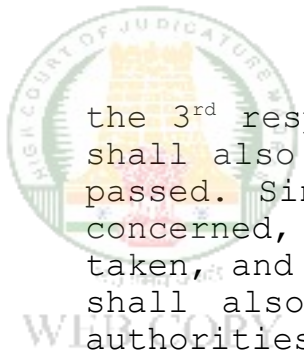
5.Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents drew the attention of this Court to the circular of the Office of the Inspector General of Registration, dated 09.04.2018 and to Section 68(2) of the Act.

6.For the sake of convenience, Section 68(2) of the Act, is extracted hereunder:-

"68.Power of Registrar to superintend and control Sub-Registrars.-

(2)Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered."

7.Considering the said submissions made on behalf of both sides, the writ petition is disposed of with a direction to the 2nd respondent to enquire about the settlement deed that has been registered on 28.01.2020 vide Document No.198/2020 in the office of



the 3rd respondent. It is made clear that the 5th and 6th respondents shall also be enquired and without hearing them, no orders would be passed. Since serious allegations are made against the authorities concerned, an enquiry shall be conducted, appropriate action to be taken, and in the enquiry, the persons, who are going to be affected shall also be heard. If there is any error, it is open to the authorities to rectify it in terms of Section 68(2) of the Act. But, if there is any wilful act, certainly, appropriate action, including criminal action will have to be taken against the Sub-Registrar in terms of Section 83 of the Act. No third party right shall be created in respect of S.No.709/2 and Survey No.733, till the issue is decided. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

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 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 Deputy Inspector General (Registration)
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- 4.The Sub Registrar,
Kalakadu Sub Registration Office,Tirunelveli.

+1 CC to M/s.SPL GP (SR-22355[F] dated 20/11/2020)

W.P. (MD) No.16324 of 2020
19.11.2020

SJ(CO)

KB(14.12.2020) 3P 6C

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