



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.5805 of 2018

P.Jeyasakthi

... Petitioner

-Vs-

1.The District Registrar (Administration)
Office of the District Registrar,
Sivagangai District, Sivagangai.

2.The Sub Registrar,
Office of the Sub Registrar,
Thiruppuvanam
Sivagangai District.

3.Jeyashanmugam

... Respondents

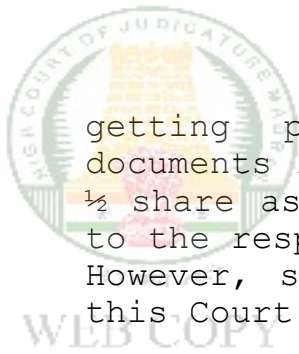
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to take appropriate action against the 3rd respondent based on the petitioner's representation dated 12.08.2017 in the light of Circular in letter No.41530/U1/2017 dated 08.11.2017 issued by the Inspector General of Registration, Chennai.

For Petitioner : Mr.S.Karthick Subramanian
For Respondents : Mr.K.Sathiya Singh, for R1 & R2
Additional Government Pleader.
Mr.V.Sankara Narayanan for R3

ORDER

The petitioner has come forward with this Writ Petition seeking a direction to the 1st respondent to take appropriate action against the 3rd respondent based on the petitioner's representation dated 12.08.2017 in the light of Circular in letter No.41530/U1/2017 dated 08.11.2017 issued by the Inspector General of Registration, Chennai.

2.According to the petitioner, her husband purchased the property in S.F.Nos.111/1, 111/1A1, 111/1A4, 111/1B1/ and 107/6C3A to the extent of 2.57 Acres, through registered sale deed dated 04.08.1988 and 10.08.1998. After the demise of her husband, the petitioner and her son, who is the third respondent herein, are enjoying the property. Her case is that the third respondent without



getting permission from the petitioner, executed registered documents in favour of others. Since the petitioner is entitled to $\frac{1}{2}$ share as legal heir, she has made a representation on 12.08.2017 to the respondents 1 and 2 to take action against the 3rd respondent. However, since no action has been taken, the petitioner is before this Court with this writ petition.

3.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.

4.When the matter is taken up for hearing, the learned counsel for the third respondent would submit that the sale deed was executed with the knowledge of the petitioner, which has been refuted by the petitioner.

5.Mr.K.Sathya 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.It is an admitted case that the property belong to the deceased Pushpavanam, who is the husband of the petitioner. The petitioner is the mother and the third respondent is the son. When the sale deed is registered, the legal heirs will have to execute the document. Merely because there is a dispute and that there is a debt payable, one of the legal heir alone cannot execute the deed, unless otherwise he/she is empowered with the power of attorney to do so.

8. At this juncture, it is submitted by the third respondent that the entire transaction with regard to clearance of debts is known to the petitioner and that he may be permitted to produce the documents before the concerned authorities.



9. Since the third respondent has admitted that the mother has not signed, enquiry needs to be conducted in terms of 68(2) of the Act, 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 and others in terms of Section 83 of the Act. No third party right shall be created in respect of the aforesaid survey numbers, till the issue is decided. The aforesaid exercise shall be completed within a period 120 days from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Writs)

// 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 District Registrar (Administration)
Office of the District Registrar,
Sivagangai District, Sivagangai.

2. The Sub Registrar,
Office of the Sub Registrar,
Thiruppuvanam
Sivagangai District.

Order made in
W.P. (MD)No.5805 of 2018
19.11.2020

PU(CO)
TR(18.12.2020) 3P 3C