



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.01.2020
CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.17573 of 2015

Rani

.. Petitioner

Vs.

1.The Inspector General of Registration,
O/o. Inspector of General of Registration,
Santhome High Road,
Chennai - 600 028.

2.The District Registrar,
O/o. District Registrar,
Periyakulam,
Theni District.

3.The Sub-Registrar,
Theni Sub-Registrar Office,
Theni District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the Respondents to conduct an enquiry and to take appropriate action as per the Circular No.67, dated 03.11.2011 of the 1st respondent in respect of fraudulent Registration vide Document No.108/2004, 6548/2006 and 6656/2006 pertaining to Survey Nos.989/1, 989/5 situated at Unchampatti Village, Theni Taluk and Theni District in the light of the Petitioner's representation, dated 07.08.2015 within a time frame fixed by this Hon'ble Court.

For Petitioner	: Mr.V.Manikandan
For Respondents	: Mr.M.Murugan Government Advocate

ORDER

This writ petition is filed for the issuance of Writ of Mandamus, directing the Respondents to conduct an enquiry and to take appropriate action as per the Circular No.67, dated 03.11.2011 of the 1st respondent in respect of fraudulent Registration vide Document No.108/2004, 6548/2006 and 6656/2006 pertaining to Survey Nos.989/1, 989/5 situated at Unchampatti Village, Theni Taluk and Theni District in the light of the Petitioner's representation, dated 07.08.2015 within a time frame fixed by this Hon'ble Court.



2.The brief facts that are relevant for the disposal of this writ petition are as follows:

The petitioner is one of the daughters of Late Krishna Samy. The petitioner admits that the petitioner's father is the owner of property in S.No.989/1. The petitioner's father died leaving behind the petitioner with her three brothers and two sisters. The petitioner admits that her father executed a settlement deed in the year 1965 in favour of three brothers. It is the case of the petitioner that two of her brothers by name Subbiah and Selvaraj died when they were minors and that the petitioner and her brother by name Subburaj and the other two sisters of petitioner are the legal heirs of Subbiah and Selvaraj, the deceased brothers of the petitioner.

3.Stating that the petitioner's brother by name Subburaj executed a power of attorney fraudulently in the name of one Bethanasamy and the said power of attorney had executed subsequent sale deed in favour of his son, the petitioner submitted a representation before the District Registrar to cancel the fraudulent registration of sale deed by her brother by name Subburaj. It is also admitted by the petitioner that mutation of revenue records had taken place and the petitioner and her sisters have filed appeal before the Revenue Divisional Officer, which is pending.

4.Though the petitioner described the transaction namely the sale deed stated to have been executed by her brother as fraudulent, the alleged false claim of petitioner's brother to be the exclusive owner of the property will not under the document as a fraudulent transaction, unless the petitioner obtain a declaration from the Civil Court to that effect. The documents have been executed by petitioner's brother claiming exclusive ownership through a power of attorney deed. Though the learned counsel for the petitioner states that the registration of documents is fraudulent and that the petitioner's brother has committed forgery, no forgery is alleged or evident from the allegations made in the affidavit filed in support of the petition. The petitioner has not even impleaded the petitioner's brother or the purchaser of the property even though they are very much interested.

5.It is admitted that Circular No.67 issued by the first respondent has been withdrawn. Though the said Circular is replaced by other circulars and few other circulars have also been issued by the first respondent, the power given to the District Registrar or Sub Registrar under the Registration Act, makes the plea of petitioner un-sustainable. It has been repeatedly held that the first respondent or the Registrar, District Registrar has no power to unilaterally cancel the registration of the transaction under no circumstances. The whole enquiry contemplated under the



parties executing the documents or the documents presented for registration. An enquiry relating to the title is not contemplated under any of the provisions of Registration Act. It is open to the petitioner to approach the Civil Court as to the illegality of the transaction. The petitioner is not a party to the sale deed or the power of attorney deed executed by her brother. In such circumstances, the documents which are registered are not binding on the petitioner and it will not certainly come in the way of the petitioner establishing her title before the Civil Court. It should also be made clear that the petitioner or any one can execute any document of conveyance after showing the encumbrance and after giving a declaration that the said document is not binding.

6.Having regard to the facts admitted in this case, this Court is of the view that the petitioner's right is only to approach the Civil Court for partition or for appropriate relief. Preserving such liberty to the petitioner, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1.The Inspector General of Registration,
O/o. Inspector of General of Registration,
Santhome High Road,
Chennai - 600 028.

2.The District Registrar,
O/o. District Registrar,
Periyakulam,
Theni District.

3.The Sub-Registrar,
Theni Sub-Registrar Office,
Theni District.

+1 CC to SPL.GP (SR-3667[F] dated 29/01/2020)

W.P. (MD) .No.17573 of 2015

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