



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2020

CORAM

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

W.P.(MD)No.19523 of 2015

M.Anees Mohamed Saalin

... Petitioner

vs.

1.The District Registrar,
Department of Registration,
Tenkasi, Tirunelveli District.

2.The Sub Registrar,
Tenkasi, Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation, dated 19.09.2015 and delete the entry of Document No.875/1995, dated 02.05.1995, Document No.380 of 1997, dated 03.03.1997 and the Document No.291 of 1998, dated 02.03.1998 on the file of the second respondent's office under the Circular No.67, dated 03.11.2011 and in view of the decree in O.S.No.174 of 1995, dated 03.04.2003.

For Petitioner

:Mr.M.Mohammed Sherbudeen

For Respondents

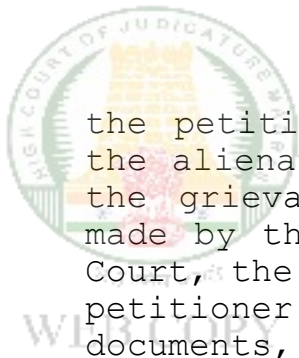
:Mr.M.Murugan

Government Advocate

O R D E R

This Writ Petition is filed for a direction to direct the respondents to consider the petitioner's representation, dated 19.09.2015 and delete the entry of Document No.875/1995, dated 02.05.1995, Document No.380 of 1997, dated 03.03.1997 and the Document No.291 of 1998, dated 02.03.1998 on the file of the second respondent's office under the Circular No.67, dated 03.11.2011 and in view of the decree in O.S.No.174 of 1995, dated 03.04.2003.

2.The petitioner states that his father is the absolute owner of the property measuring to an extent of 4.75 Acres situated on the southern side of S.No.487, Tenkasi, Tirunelveli District, by virtue of a gift deed, dated 20.08.1988. Subsequently, it appears that a suit in O.S.No.174 of 1995 was filed by the petitioner's father on the file of the Principal District Munsif Court, Tenkasi, for declaration of his title to the property against Alimal Beevi, M.Amanullah and P.K.Vineesh. Stating that the said suit in O.S.No.174 of 1995 filed by the petitioner's father was decreed and the further appeal preferred by the defendants was also dismissed,

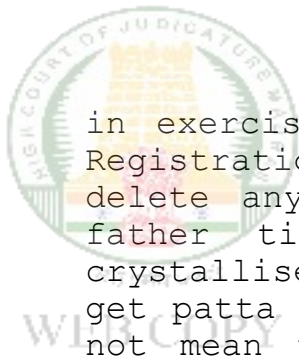


the petitioner states that the Civil Court has also declared that the alienation made by the defendants are void and illegal. It is the grievance of the petitioner that despite various alienations made by the defendants in the suit were held invalid by the Civil Court, the respondents have not considered the representation of the petitioner to cancel or delete the entries relating to three documents, based on the Circular No.67, dated 03.11.2011.

3.It may be true that the Civil Court has declared the documents relied upon by the defendants in the suit to establish their title, as void and not binding on the plaintiff in the suit, namely, the petitioner's father. By declaring the title of petitioner's father, the Civil Court has uphold the title of petitioner's father as against the defendants in the suit. The petitioner's father has also obtained a decree for consequential injunction as against the defendants. In view of the findings of the Civil Court that the documents relied upon by the defendants in the suit against the petitioner's father are invalid and inoperative as against the petitioner's father, the registered documents cannot have no legal implications, so as to affect the right or interest of the petitioner or his father.

4.Based on the decree declaring the right of petitioner's father, the petitioner can claim absolute ownership and enjoyment over the property, which is the subject matter of the suit. However, that does not mean that the registration department can also cancel the registration or entries relating to the registered sale deeds, merely because, the invalidity of the documents has been found by the Civil Court. The authorities under the Registration Act are expected to exercise their power and functions in accordance with the provisions of Indian Registration Act 1908. The Indian Registration Act 1908, does not contemplate the provision to deal with the cancellation of registration or entries made by Sub Registrar in the course of registration of a document and that therefore, this Court cannot issue a direction contrary to the provisions of a Statute. Writ of Mandamus will lie only to issue a direction against the authorities to perform their official duty. There cannot be a direction to do something, which is not authorised by law.

5.Though the petitioner relies upon Circular No.67, it is to be noted that the said Circular No.67, dated 11.03.2011 issued by the Registration Department has been withdrawn. Hence, there cannot be a direction to do something based on a circular, which is not in force. This Court has repeatedly held in several judgments that the Registrar, who exercise the power and functions under the provisions of Registration Act, is not enjoying the power to cancel or delete any entry made by him in any book maintained by the Registrar Office relating to the transfer of title. Even if a document is fraudulently executed and registered, the Registrar or Sub Registrar



in exercise of his power and jurisdiction under the provision of Registration Act is not empowered to cancel the registration or delete any entry. When the Civil Court declared a petitioner's father title, the petitioner is entitled to get his right crystallised by effecting mutation of names in revenue records and get patta in accordance with the Civil Court's decree. That does not mean that the Sub Registrar is also required to cancel the registration in terms of the judgment and decree of the Civil Court.

6. Having regard to the facts narrated and the legal position discussed above, this Court is of the view that there is no merit in the Writ Petition. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. It is made clear that the petitioner's right to deal with the property on the basis of Civil Court's decree cannot be curtailed because of previous registration of documents.

Sd/-

Assistant Registrar (CS II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Registrar,
Department of Registration,
Tenkasi, Tirunelveli District.

2. The Sub Registrar,
Tenkasi, Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-7149[F] dated 19/02/2020)

W.P. (MD) No. 19523 of 2015
17.02.2020

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