

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.2269 of 2021

S.Thirunavukkarasu

...Petitioner

-Vs-

1.The Sub-Registrar,
Sub-Registrar Office Kundrathur,
Kundrathur, Chennai-600 069

2.Mrs.P.Jayanthi

3.Mrs.Shopiya Rani

4.P.Ajaykumar

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent herein to conduct enquiry and to cancel the Release deed dated 14.02.2020 in Doc No.2541 of 2020 on considering the petitioner's representation dated 16.06.2020 within a stipulated time.

For Petitioner : Mr.R.Ganesha Moorthy

For Respondents : Mr.T.M.Pappiah,

Spl. Government Pleader for RR1

ORDER

The petitioner has moved this Writ Petition seeking a direction to the

Sub-Registrar for cancelling the Release Deed dated 14.02.2020 which was registered as Document no.2541 of 2020, by considering the petitioner's representation dated 16.06.2020.

2. The brief facts are that the petitioner claims himself to be the foster son of certain Ramani, who has obtained certain properties under a Will executed by his father on 05.09.1988. Be that as it may, certain Premkumar, who is the brother of the foster mother of the petitioner attempted to assert some right over the property of the said Ramani and for this purpose, he has filed O.S.No.131 of 2015 against her for bare injunction which came to be dismissed by the concerned Court and the same has become final.

3. According to the petitioner, the said Premkumar is now dead and his wife and children are trying to assert some right over the property and created a Release Deed vide in Document no.2541 of 2020. Now, seeking to cancel the said Release Deed, the petitioner has approached this Court by way of present Petition.

4. Heard, Mr.R.Ganesha Moorthy, learned counsel for the petitioner and Mr.T.M.Pappiah, the learned Special Government Pleader appearing for the first respondent.

5.The law is well settled vide authoritative pronouncement of the Hon'ble Supreme Court in “*Satya Pal Anand vs State Of M.P. and others*” [(2016) 10 SCC page 767], that once the registration of the document is completed in terms of the provisions of the Registration Act, it is not open to any authority under the Act of 1908 to cancel the registration. The remedy of appeal provided under the Act of 1908, in Part XII, in particular Section 72, is limited to the inaction or refusal by the Registering Officer to register a document. The power conferred on the Registrar by virtue of Section 68 cannot be invoked to cancel the registration of documents already registered. The validity of such registered document can, indeed, be put in issue before a Court of competent jurisdiction. Therefore, if the petitioner has to challenge the Release Deed in question, he may have to approach the appropriate civil Court for remedy.

6. At this juncture, the learned counsel for the petitioner would submit that the Sub-Registrar, the first respondent herein may at least hold an enquiry within the meaning of Section 82 r/w 83 of the Registration Act, even though these provisions would only deal with the prosecution for creating false document and even though the scope of operation of these provisions is limited, the Sub-Registrar may still hold an enquiry for the limited purpose of Section 82 r/w 83 of the Registration Act.

7. Accordingly, this Court directs the Sub-Registrar, the first respondent herein to hold an enquiry for the said purpose after issuance of notice to all the parties who are likely to be affected by his decision and after providing the parties a fair and effective hearing, dispose of the matter through a speaking order within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. The Writ Petition is disposed of accordingly. No costs.

WEB COPY

09.02.2021

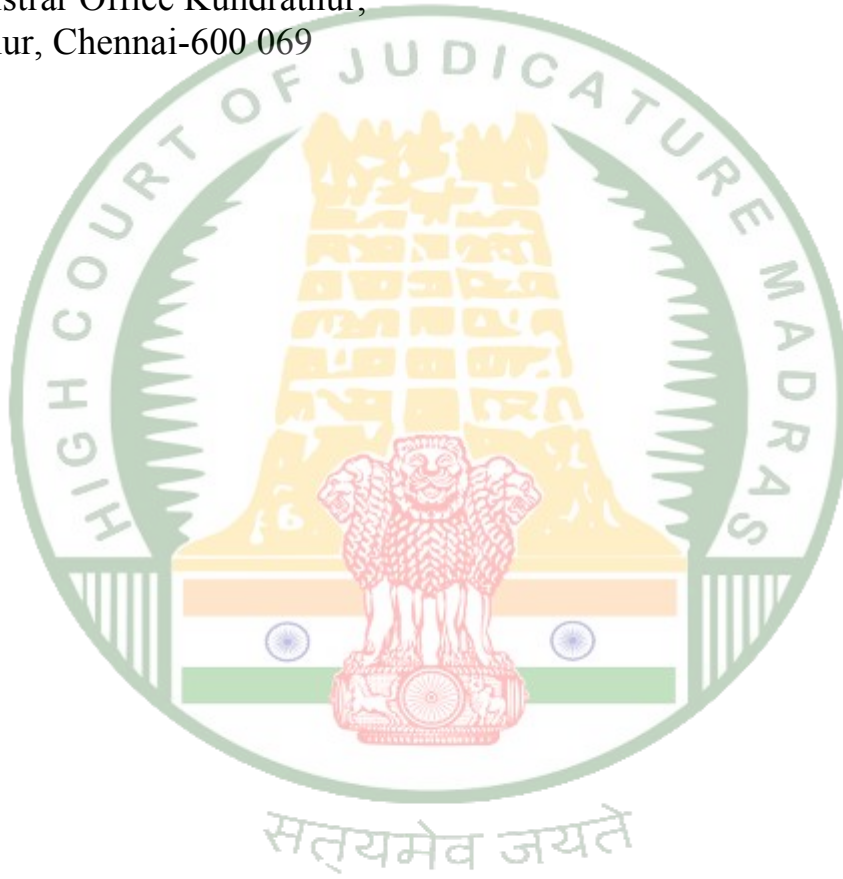
Index : Yes/No

Internet : Yes/No

dn

To

1.The Sub-Registrar,
Sub-Registrar Office Kundrathur,
Kundrathur, Chennai-600 069



WEB COPY

W.P.No.2269 of 2021

N.SESHASAYEE, J.,

dn



W.P.No.2269 of 2021

WEB COPY

09.02.2021