

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.4824 of 2021

R.Mathiazhagan

...Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai - 600028.

2. The District Registrar,
Ariyalur,
Ariyalur District-621704.

3. The Sub Registrar,
Jayankondam,
Udayarpalayam Raluk,
Ariyalur District-621 802.

4. The Thasildhar,
Andimadam Taluk,
Andimadam,
Ariyalur District-621 801.

5. Elavarasan

6. Smt.Banumathi

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to commence prosecution as against the 5th and 6th respondents as contemplated under Section 82 and 83 of the Registration Act, based upon the petitioner's representation dated 10.11.2020 in accordance with law.

For Petitioner : Mr.A.Gouthaman
For R1 to R3 : Mr.T.M.Pappiah
Special Government Pleader

ORDER

This petition has been filed by the petitioner seeking a direction to the respondents 1 to 3 to commence prosecution as against the 5th and 6th respondents as contemplated under

Sections 82 and 83 of the Registration Act, based upon the petitioner's representation dated 10.11.2020 in accordance with law.

2. According to the petitioner, 5th respondent is his brother and both of them have inherited certain ancestral property after the demise of their parents, and due to his employment the petitioner was abroad, and after return from abroad, he insisted 5th respondent for partition, and to allot half share in the property to which he is entitled to. But the 5th respondent was evading to effect the partition. Later the petitioner came to know from the encumbrance certificate that the 5th respondent had executed a settlement deed in favour of his wife, 6th respondent herein on 24.07.2020 which was registered on the file of the 3rd respondent. According to the petitioner, the act of the 5th respondent executing the settlement deed in favour of the 6th respondent including the share of the petitioner is illegal and the 3rd respondent ought not to have registered the document without conducting the enquiry. Pursuant to the settlement executed by the 5th respondent in favour of the 6th respondent, the Tahsildar, 4th respondent herein has changed the patta in favour of the 6th respondent. Hence, the petitioner has come forward with the present Writ Petition, seeking a direction to the respondents 1 to 3 to commence prosecution as against the 5th and 6th respondents as contemplated under Section 82 and 83 of the Registration Act, based upon the petitioner's representation dated 10.11.2020 in accordance with law.

3. Mr. T. M. Pappiah, learned Special Government Pleader entered appearance for the respondents 1 to 3.

4. 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 civil Court of competent jurisdiction. Therefore, if the petitioner has to challenge the settlement deed in question, he may have to approach the appropriate civil Court for remedy.

5. Turning to the prayer sought for a direction to hold an enquiry within the meaning of Section 82 r/w 83 of the

Registration Act is concerned, even though these provisions would only deal with the prosecution for creating false documents 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 Sections 82 r/w 83 of the Registration Act.

6. Therefore, this Court directs the second respondent/Tahsildar to hold an enquiry after the conclusion of the General Elections to the State Legislative Assembly - 2021, after issuing notice to all the parties who are likely to be affected by his decision, and provide them a fair and effective hearing, and dispose of the matter through a speaking order within a period of twelve (12) weeks thereafter.

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

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai - 600028.

2. The District Registrar,
Ariyalur, Ariyalur District-621704.

3. The Sub Registrar,
Jayankondam,
Udayarpalayam Raluk,
Ariyalur District-621802.

4. The Thasildhar,
Andimadam Taluk, Andimadam,
Ariyalur District-621801.

+1cc to The Government Pleader SR.NO..14241

AKM/09.04.21/3P-6C/

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