

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7/1/2021

C O R A M

THE HON'BLE MR.JUSTICE S.SUNDAR

Writ Petition No.22946 of 2013

C. Sekar

... Petitioner

Vs

1. The Inspector General of Registration
Chennai 600 028.
2. The District Registrar
23 C North Park Street
Gobichettypalayam
Erode District.
3. The Sub-Registrar
Sathiya Mangalam 638 401
Erode District.
4. Navamani
5. Sivaraj
6. Balasamy
7. Rajamani
8. Rajammal
9. Sivagami
10. Alalagan
11. Amutha
12. Jeeva
13. S. Parameswari

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the second and third respondents to take appropriate action to prosecute the respondents 4 to 13 under Section 83 of the Indian Registration Act in pursuance of the proceedings of the first respondent dated 26/6/2013 made in No.06383/VI/2013.

For petitioner ... Mr.S.Senthilnathan

For respondents ... Mr.P.P.Purushothaman
Government Advocate
for R.R.1 to 3.

Mr.I.C.Vasudevan
for R.R.4 to 13.
(No appearance)

O R D E R

This writ petition is filed for issuing a writ of mandamus, directing the respondents 2 and 3, to take appropriate action, to prosecute the respondents 4 to 13, under Section 83 of the Indian Registration Act, in pursuance of the proceedings of the first respondent, dated 26/6/2013.

2. Brief facts that are necessary for the disposal of the writ petition are as follows:-

The dispute is relating to the land measuring an extent of 1.24.0 hectare, in Sikkarasampalayam Village, Sathiyamangalam Taluk, in Gobichettypalayam, Registration District. It is stated by the petitioner that the said property belong to one Valliammal of Sikkarasampalayam Village. Since the said Valliammal could not discharge the debt obtained from the petitioner's father Chinnasamy, it is stated by the petitioner that she handed over the possession of lands by executing an affidavit, dated 27/3/1988. It is further stated that the petitioner came to be in possession after the death of petitioner's father.

3. The petitioner admit that the fifth respondent is the petitioner's paternal uncle. According to the petitioner, fifth respondent along with his sons and daughters, viz., respondents 6 to 12 in the writ petition, executed a sale deed, in favour of the fourth respondent, on 12/8/2011, in respect of an extent of 1.20.0 hectares for a sum of Rs.76,500/-. The fourth respondent executed a sale deed, dated 21/2/2012, in favour of thirteenth respondent herein and the same was also registered.

4. It is the specific case of petitioner that the property has been fraudulently dealt with by the respondents 4 to 13, even though the petitioner is in lawful possession of the property. Since the petitioner came to know about the fraudulent dealings by the fifth respondent in respect of property which according to the petitioner is in his enjoyment, the petitioner states that after collecting particulars, he

submitted an application before the second respondent praying for cancellation of sale deed. The second respondent called upon the petitioner to appear for an enquiry and the petitioner also appeared before the second respondent. It is submitted that the first respondent, refused to initiate any action, under the pretext that Circular No.67 dated 3/11/2011 is under challenge in a batch of writ petitions before this Court.

5. The petitioner has specifically referred to Circular No.67, dated 3/11/2011 and pointed out that Registrar has got power under Section 83 of the Indian Registration Act to take appropriate action. For the respondents 2 and 3 to take action, under Section 83 of the Act, the contention of the petitioner is that the documents of sale deed had been fraudulently created and that therefore, there must be prosecution under Section 83 of the Indian Registration Act.

6. This Court carefully examined the contentions of the petitioner in the affidavit filed in support of the petition. Admittedly, seventh respondent is the son of fifth respondent. The petitioner's complaint is that seventh respondent has signed the sale deed with a false identity. The case of the petitioner is that seventh respondent did not sign the sale deed. This Court is unable to appreciate the argument to enable a stranger to instigate a proceeding, under Section 83 of the Registration Act. Petitioner is not the owner of the property. Petitioner is a person claiming to be in possession of the property based on the affidavit from the original owner by name Valliammal. It is brought to the notice of this Court that the said Valliammal is none else than the first wife of the fifth respondent. Petitioner and respondents 4 to 12 are close relatives and they are fighting for the land. This Court is unable to find any legal basis for the petitioner to claim title or lawful possession in respect of the property, which is the subject matter of dispute. Without any legal basis, the petitioner tries to claim title on the basis of an affidavit. Petitioner, on the strength of such affidavit which is not admissible to prove his title, questions the rights of legal heirs of original owner to deal with the property. Without a valid document to sustain the claim of title or legal enjoyment, the petitioner has come forward with the present writ petition just to create a cloud over the property of his relative.

7. Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents 1 to 3 brought to the notice of this Court that the District Registrar has already passed an order, on 23/4/2014, rejecting the representation of the

petitioner, on the ground that the petitioner has not proved the allegation against respondents 4 to 12 herein and that therefore, the petition submitted by the petitioner is liable to be rejected.

8. After hearing the submission of the learned Government Advocate, this Court is of the view that the view expressed by the second respondent for rejecting the petitioner's representation is well founded, as this Court is also of the view that writ petition deserves dismissal for want of merits.

9. Accordingly, instant writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Inspector General of Registration,
Chennai 600 028.
2. The District Registrar,
23 C North Park Street,
Gobichettypalayam,
Erode District.
3. The Sub-Registrar,
Sathiya Mangalam 638 401,
Erode District.

+1cc to the Government Pleader Sr.1119

W.P.No.22946 of 2013

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