

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 27483 of 2016

R.Jothi Ramalingam

... Petitioner

-vs-

1. The District Registrar (Administration),
Registration Department,
Ariyalur.
2. P.Sangili
3. S.Eswari ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the first respondent to dispose of the petitioner's petition in R.C. No.6840 dated 07.12.2015.

For Petitioner : No appearance

For Respondents : Mr.P.Purushothaman
Government Advocate for R1
No appearance for R2 and R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the first respondent to dispose of the petitioner's petition in R.C. No.6840 dated 07.12.2015.

2. The case of the petitioner is that, the petitioner claims to be the owner of the land, i.e., Nanja at S.No.305/2 measuring to an extent of 0.45 acres at Madakkudi Village, Lalgudy Taluk, Tiruchirappalli District, by acquiring the land by way of registered sale deed No.2262/2003 dated 15.12.2003.

3. The petitioner had been in peaceful possession and enjoyment of the said property. The 2nd respondent claimed to be a cultivating tenant of the land concerned, accordingly, the 2nd respondent seems to have registered a document giving lease hold rights of the land concerned to and in favour of the third respondent, who is the wife of the second respondent

on 07.04.2004.

4. Subsequently, after coming to know about the facts, the petitioner who wanted to cancel the said lease hold deed registered at the Sub Registrar Office dated 07.04.2004 had given a request and while that was under consideration, the power to cancel such deed vested in the Registrar Office concerned given by the Director General of Registration by circular No.67/IGR/2013 dated 03.11.2011 was challenged and stayed by this Court at Madurai Bench and subsequently, according to the petitioner, by order dated 17.07.2014, the stay order granted was vacated. Therefore, according to the petitioner, there can be no impediment for the first respondent to cancel the lease deed dated 07.04.2004 executed in favour of the third respondent with regard to the property claimed by the petitioner as the owner of the same.

5. In this regard, the petitioner had given a representation on 07.12.2015 to the first respondent, since the same has not been considered, he has approached this Court by filing the Writ Petition with the aforesaid prayer.

6. When the case is called, there is no representation for the petitioner as well as the private respondents. However, Mr.P.Purushothaman, learned Government Advocate appearing for the first respondent, on instructions, would submit that, the very circular dated 03.11.2011, subsequently, in fact, has been withdrawn by the IG of Registration, therefore, the circular is no more in effect. Hence, if at all an enquiry to be conducted on the alleged fraudulent transaction, which was said to be registered on 07.04.2004, such limited enquiry under Section 83 of The Registration Act, 1908 alone can be conducted by the first respondent in respect of the plea raised by the petitioner, to cancel the deed dated 07.04.2004 is concerned, it is for the petitioner to approach the appropriate forum as that power is not vested with the first respondent, he contended.

7. I have considered the said submissions made by the learned Government Advocate appearing for the first respondent and have perused the materials placed before this Court.

8. In view of the said submissions made by the learned Government Advocate that, the very circular dated 03.11.2011 since has been subsequently withdrawn by the Department, i.e., IG of Registration, based on such circular, no power can be vested with the Registration Department / Registrar to cancel any deed by them including the one claimed by the petitioner dated 07.04.2004. However, the first respondent can conduct the limited enquiry for the purpose of Section 83 of The Registration Act and beyond which, he cannot decide the issue to cancel the same. For the said purpose, the petitioner has to approach only the concerned forum.

9. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"That there shall be a direction to the first respondent to consider and dispose the petition / representation submitted by the petitioner dated 07.12.2015, stating the aforesaid reason as discussed herein above, after giving an opportunity of being heard to both the petitioner as well as the private respondents by giving separate notices to them and in this regard, if at all, the first respondent wants to conduct the enquiry under Section 83 of The Registration Act, it is open to him to conduct the same. However, for the purpose for cancelling the deed dated 07.04.2004 is concerned, it is for the petitioner to approach the concerned forum. In that line, a decision can be taken in accordance with law by the first respondent on the application / petition of the petitioner dated 07.12.2015 and pass orders thereon on merits within a period of twelve weeks from the date of receipt of a copy of this order."

10. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-V)

// True Copy //

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Sub Assistant Registrar

vji

To

The District Registrar (Administration),
Registration Department,
Ariyalur.

+1 CC to Government Pleader, SR.No.24010/2021

W.P. No. 27483 of 2016

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