

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.13445 of 2021
and W.M.P.No.14325 of 2021

S.Unni Krishnan

.. Petitioner

Vs.

1.The Inspector General of Registration
No.100, Santhome High Road,
Pattinapakkam,
Chennai – 600 028.

2.The Deputy Inspector General of Registration,
(Chennai Region)
No.27, Rajaji Salai,
Chennai – 600 001.

3.The District Registrar,
South Chennai,
Industrial Estate,
Guindy,
Chennai.

4.The Sub Registrar,
Velacherry,
Chennai – 600 042.

5.D.Kumar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order dated 23.11.2020 bearing Na.Ka.No.1996/Aa1/2020 passed by the 2nd respondent, quash the same as illegal and to direct the 4th respondent to initiate action against the 5th respondent as per the directions of the 3rd respondent vide proceedings dated 02.07.2020 bearing Na.Ka.No.4943/E2/2019 within time stipulate by this Court.

For Petitioner .. Mr.R.Ragavendran
 For RR1 to 4 .. Mr.K.M.D.Muhilan
 (Govt.Advocate)
 For R5 .. Ms.A.L.Ganthimathi

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking the records with respect to the impugned order dated 23.11.2020 bearing Na.Ka.No.1996/Aa1/2020 passed by the 2nd respondent and direct the 4th respondent to initiate action against the 5th respondent as per the direction of the 3rd respondent by an order dated 02.07.2020.

2.The petitioner claims that the land in Plot No.61 in S.Nos.594/1 and 605/1 measuring to an extent of 2800 sq.ft at Velacherry Village was owned and possessed by his grandmother M.K.Lakshmi Kutty Amma. It is stated that the land had been purchased by a Sale Deed dated 23.05.1980 and registered as Doc.No.2257 of 1980. It is also claimed that she was also owning lands in S.No.23/1 under Patta Survey No.594/1A1A1A1Part, Block No.0149, Ward No.001, measuring to an extent of 651 sq.ft situated at Velacherry Village and bearing door No.25/61, Andal Nagar, 2nd Main Road, Velacherry, Chennai – 600 041.

3.In effect the petitioner claims that the grandmother M.K.Lakshmi Kutty Amma had purchased lands to an extent of 2,800 sq.ft and was in possession of an additional extent of 651 sq.ft by way of patta issued. It is also particularly stated that the petitioner came to know that the 5th respondent had created documents with respect to the lands in S.No.23/1 in Patta Survey No.594/1A1A1A1Part, Block No.0149 Ward No.001 being the 651 sq.ft. of land. The petitioner applied for encumbrance certificate and found that a Sale Deed dated 02.02.1987 had been registered as Doc.No.108 of 1987 as if the said land had been sold by K.P.Gopinathan to G.Ramasamy. Ten other documents were also found entered in the

encumbrance certificate.

4. Thereafter, he made an application under the Right to Information Act. He also gave a complaint to the 1st respondent namely, Inspector General of Registration, Chennai, who directed the Assistant Inspector General of Registration, Chennai, to conduct an enquiry and file a report. A report dated 28.06.2018 was filed holding that Doc.No.108 of 1987 was not actually a Sale Deed but a mortgage deed executed by one Vijaya in favour of one Perumal and Sale Deed date 02.02.1987 was a fraudulent document. It was stated that necessary corrections were carried out in the encumbrance certificate of the said land.

5. It had also been stated in the affidavit filed in support of the said writ petition that the 5th respondent had used the Sale Deed and obtained patta for the said land in his name. The grandmother M.K.Lakshmi Kutty Amma had made a representation to the District Revenue Officer, Chennai dated 05.07.2018 to cancel the patta granted in favour of the 5th respondent. The District Revenue Officer had cancelled the patta and restored the patta in the name of M.K.Lakshmi Kutty Amma by order dated 02.11.2018. The 5th respondent did not challenge the said order. Thereafter, a further encumbrance was created by the 5th respondent on 28.11.2018 by way of a

Sale Deed registered as Doc.No.6971 of 2018 by which the legal representatives of K.P.Gopinath Mudaliar had sold the land to the 5th respondent. A patta had been enclosed along with the Sale Deed.

6.It is the claim of the learned counsel for the petitioner that the patta which is now the source document before the execution of the sale deed by the legal representatives of K.P.Gopinath Mudaliar is not a true document and information with respect to the same had been issued while answering the query under the Right to Information Act.

7.In this connection representations were given and the 3rd respondent namely, the District Registrar, had conducted an enquiry and findings were also given on 02.07.2020. It is to be noted, the authorities cannot cancel any document which had been registered, but can make an entry that such document is not true and should not be acted upon. Such entries have been made with respect to the title deeds by which the 5th respondent traced his title and also with respect to another document, a settlement deed by which M.K.Lakshmi Kutty Amma had settled the 651 sq.ft of land in favour of the petitioner. The 3rd respondent had also directed initiation of criminal proceedings against the 5th respondent. This order was taken up in appeal before the 2nd respondent. The order of the 2nd respondent dated 23.11.2020

is now impugned in the present writ petition.

8. Heard arguments advanced by Mr.R.Ragavendran, learned counsel for the petitioner and Ms.A.L.Gandhimathi learned counsel for the 5th respondent and also Mr.K.M.D.Muhilan, learned Government Advocate for the 1st to 4th respondents.

9. The order of the 2nd respondent is now questioned in the present writ petition. The 2nd respondent had observed that with respect to the 651 sq.ft of land the petitioner's grandmother M.K.Lakshmi Kutty Amma claimed possessory rights through a patta. Thereafter, on examining the facts, the 2nd respondent had come to a conclusion that the settlement deed executed by M.K.Lakshmi Kutty Amma in favour of the petitioner herein over which registration, an entry had been directed to be made by the 3rd respondent, should remain as it is, namely, that the entry should continue, but interfered with the direction with respect to the entries made with respect to the documents of the 5th respondent.

10. In effect the directions of the 3rd respondent with respect to documents registered as Doc.Nos.6971/2018, 6993/2018, 6994/2018, 2015/2019, 2104/2019 and 2111/2019 were interfered with and removed by the order now impugned and passed by the 2nd respondent. However, such

an entry made with respect to the document No.2390/2019 had not been interfered with. This is the grievance of the writ petitioner.

11.As a reason, the 2nd respondent had stated that the entries can be removed only when it is established that the patta in question was a fraudulent patta. However, that information was very much available with the 2nd respondent, in view of the fact that categorical reply had been issued under the Right to Information Act, by the Revenue Department themselves that the patta in the name of K.P.Gopinathan was not a true document. As a matter of fact, both the pattas were declared to be not true documents. This information and this particular document was very much available with the 2nd respondent.

12.I find every reason to interfere with the observations in favour of the 5th respondent.

13.I will necessarily have to interfere with the order of the 2nd respondent and retain the order of the 3rd respondent with respect to Doc.Nos.6971/2018, 6993/2018, 6994/2018, 2105/2019, 2104/2019 and 2111/2019 as also with respect to Doc.No.2390/2019 through which the petitioner claims title by way of the settlement deed executed by his grandmother.

14.Both the petitioner and the 5th respondent will, as observed by both the authorities, necessarily have to approach the civil court for remedies, with respect to cancellation of the various document, on the plea of forgery and fabrication of documents and to take any other plea which they feel would be required in a suit of such nature.

15.Reverting the parties to the civil court for that purpose, but at the same time, interfering with, to the limited extent, with the order of the 2nd respondent as aforesaid, the Writ Petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

04.08.2021

Index:Yes/No
Internet:Yes/No
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To

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No.100, Santhome High Road,
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Chennai – 600 028.

2.The Deputy Inspector General of Registration,
(Chennai Region)
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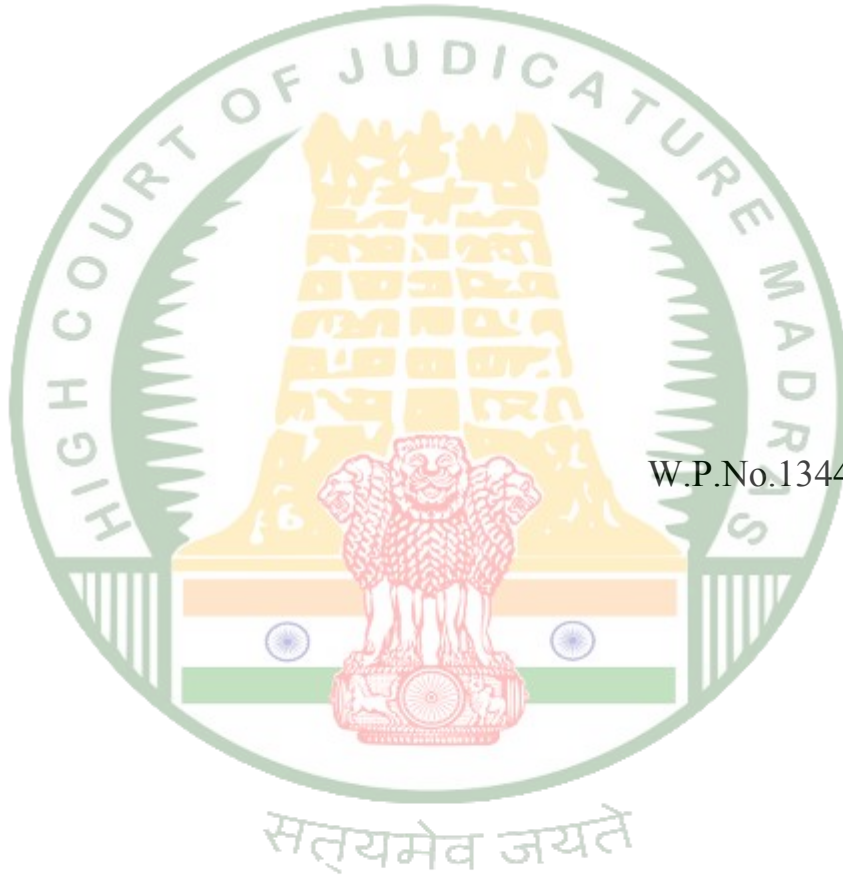
4.The Sub Registrar,
Velacherry,
Chennai – 600 042.



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C.V.KARTHIKEYAN,J

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