

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 39144 of 2016

K.Shajahan

... Petitioner

Vs

1.The Inspector General of Registration,
Santhaom Road,
Mylapore, Chennai - 04.

2.The Sub-Registrar,
Sub-Registrar Office,
Valikandapuram Post,
Perambur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to hand over the three registered sale deeds executed by the petitioner on 28.05.2015 in favour of Mohamed Iliyas son of Igmath Batcha, Mohamed Jukki, son of Igmath Batcha and Ahamed Kulam son of Mohamed Sulthan.

For Petitioner : Mr. S.Muthukrishnan

For Respondents : Mr. P.P.Purushothaman,
Government Advocate

O R D E R

This Writ Petition is filed for the issuance of a Writ of Mandamus directing the respondents to hand over the three registered sale deeds executed by the petitioner on 28.05.2015 in favour of Mohamed Iliyas , Mohamed Jukki, and Ahamed Kulam.

2. Brief facts that are necessary for the disposal of this Writ Petition are as follows:

In the affidavit filed in support of this petition it is stated by the petitioner that the petitioner purchased two acres and twelve cents of lands comprised in Survey Nos.355/1, 335/1-A and 355/2 in Peraiyur Village, from one Saleem Batcha for a valuable consideration on 15.09.2014. The said document is

registered as document No.3102 of 2014. The petitioner thereafter sold five cents each by way of three independent sale deeds and all the three documents were presented for registration on 28.05.2015 and according to the petitioner all the three documents were registered. However, the second respondent appears to have directed the petitioner to produce the original parent document namely document No.3102 dated 15.09.2014. Since the second respondent refused to release the three documents executed by the petitioner for want of original parent document dated 15.09.2014, the petitioner has come forward with the present Writ Petition.

3. Learned counsel for the petitioner submitted that the document was executed duly by the petitioner and that there is no reason why the documents could not be released. It is further submitted that signatures of the executant and witnesses were obtained by the Registrar in his statutory records and that the second respondent has no authority to keep the document after registering the same. A counter affidavit has been filed by the second respondent pointing out that the document was just kept as pending documents vide Nos.P14, P15 & P 18 of 2015 respectively and that the documents were not registered so far. It is further stated that the second respondent directed the petitioner to produce the original parent document so as to enable the second respondent to complete the registration proceedings. It was also stated by the second respondent that the document is yet to be registered and that it is kept as pending document.

4. Having regard to the rival submissions, this Court is of the view that the Sub-Registrar in exercise of his power under the provisions of the Registration Act, is empowered to hold an enquiry to verify the identity of the persons or in relation to the enquiry contemplated under the Registration Act before registering a document. It is not known why the petitioner could not supply the original parent document as it was required by the second respondent. When fake documents and documents by false identities have now become common, the genuineness of the request of the second respondent to get the original parent document cannot be faulted. The only submission made by the learned counsel for the petitioner is that the document is already registered and that therefore, the original parent document is not required for any enquiry. It is further stated that the second respondent has no authority to insist production of original parent document after registering the subsequent document. This Court, in order to verify whether the document is registered or not, requested the learned Government Advocate appearing for the respondents to verify and inform the Court as to the veracity of the statement made by the second respondent in the counter affidavit. Learned Government Advocate, after

verification, reported that the document is still kept pending and the same is not registered yet. Since the information furnished by the Government Advocate is in tune with the statement that is made in the counter affidavit, this Court has no reason to disbelieve the statement of the learned Government Advocate representing the respondents. The petitioner is not competent to say whether the document is registered or not. The Registration Act contemplates a procedure. Once the document is registered, it has to be recorded in a separate book maintained by the Registrar. Hence, the petitioner could have easily verified by getting a certified copy of the books maintained by the Registrar Office to convince this Court that the document had already been registered. In the absence of any such document produced by the petitioner, this Court has no difficulty in accepting the specific contention of the learned Government Advocate appearing for the respondents that the documents are yet to be registered.

5. Since the Registrar is competent to hold an enquiry as to the identity of the persons before registration, if an original document is sought by the Registrar, the genuineness of the request cannot be doubted at this moment especially when no mala fide is alleged against the second respondent for keeping the document or for insisting production of original document. This Court find no merit in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector General of Registration,
Santhaom Road,
Mylapore, Chennai - 04.

2.The Sub-Registrar,
Sub-Registrar Office,
Valikandapuram Post, Perambur District.

+1cc to M/s.S.Muthukrishnan, Advocate Sr.821
+1cc to the Government Pleader Sr.921

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