



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.17287 of 2021

and

WMP.No.18309 of 2021

S.Vinayagamoorthy

...Petitioner

Vs

1. The Deputy Inspector General,
Registration Department,
Cuddalore District.
2. The District Registrar (Administration),
No.63/a, Perumal Kovil Street,
Near ICICI Bank, Murungapakkam,
Tindivanam 604 001.
3. The Sub Registrar,
No.2/97a, Mayilam Pandy Road,
Vanur, Villupuram 605 109.
4. Savitha @ Sabitha
5. R.Ramachandran

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the impugned order of the second respondent in his proceedings in Na.Ka.No.4021/Aa1/2020 dated 07.02.2021 and signed on 30.07.2021 and quash the same.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents

For R1 to 3 : Mr.Yogesh Kannadasan,
Special Government Pleader

For R4 & 5 : Mr.Prakash Adiapadam



ORDER

This writ petition is filed to issue a Writ of Certiorari calling for the records of the impugned order of the second respondent in his proceedings in Na.Ka.No.4021/Aa1/2020 dated 07.02.2021 signed on 30.07.2021 and quash the same.

2. The case of the petitioner is that the property comprised in survey no.52/3,4 present sub division new survey No.52/3A1A1A1, 52/4C1 old survey No.33/2, plot Nos.93, 95, 97 belonged to one Nalini Narayanan. In turn, the said Nalini Narayanan executed settlement deed in favour of her daughter Meghala on 19.03.2012 registered vide document No.1527 of 2012. The said Meghala executed power of attorney in favour of one, Sethuraman on 17.12.2015 registered vide document No.6780 of 2015. Her power of attorney executed sale deed in favour of one, Muthaiyan on 06.01.2016 registered vide document No.61 of 2016. From the said Muthaiyan, the petitioner purchased the subject property by the registered sale deed dated 22.03.2019 registered vide document No.1475 of 2019. While being so, the fourth respondent lodged complaint alleging that the said Nalini Narayanan had no issues and she died long back on 14.03.2005 and as such she could not have executed any settlement deed in favour of the said Meghala. The said Meghala and the Nalini Narayanan were impersonated by the impersonators and executed the alleged settlement deed in favour of the said Meghala on 19.03.2012. On receipt of the same, the second respondent conducted detailed enquiry and concluded that all the documents were forged one and executed by impersonators, and further directed the third respondent not to register any deed of conveyance in respect of the subject property. Further concluded that the fourth respondent is being the legal heir of the deceased Nalini Narayanan, she is the owner of the property. Aggrieved by the same, the petitioner filed this writ petition.

3. The learned counsel for the petitioner would submit that the second respondent conducted enquiry during the Covid-19 pandemic circumstances and as such the petitioner could not appear before the second respondent for enquiry. The second respondent without giving opportunity of hearing to the parties to adduce sufficient materials to substantiate their claim, passed the impugned order. It amounts to violation of principles of natural justice. The act of the second respondent in treating the parties to the documents as fake and impersonators on the ground of their non appearance in the impugned order constitutes patent illegality on the face of record and the same is liable to be set aside. That apart, the third respondent was injuncted by the impugned order from registering any document with respect of the subject property for the reason that the documents declared to be fake and fraudulent. The fourth respondent only



with intention to grab the property, she got declared as legal heir of the said Nalini Narayanan and as such the petitioner filed suit in OS.No.22 of 2021 on the file of the Principal District Munsif, Vanur for permanent injunction as against the fourth respondent from interfering with the petitioner's peaceful possession and enjoyment of the subject property and it is pending.

3.1 The learned counsel for the petitioner further submitted that under Section 69(2) of the Registration Act, 1908, the rules so made shall be submitted to the State Government for approval, and after they have been approved, they shall be published in the Official Gazette, and on publication shall have effect as if enacted in this Act. . Whereas the circular issued by the Inspector General of Registration is not approved by the State Government and it has not been published in the official gazatte. Therefore, enquiry conducted by the second respondent on the basis of the circular dated 09.07.2021 is vitiated and the entire proceedings cannot be sustained. He further submitted that as per Section 34 of the Registration Act, registering officer shall enquire whether or not such document was executed by the persons by whom it purports to have been executed. In the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear. Any application for such direction under the proviso to sub section 1 lodged with a Sub Registrar, he shall forthwith forward it to the Registrar to whom he is subordinate. Therefore, the second respondent has no power to annul the documents as fabricated one.

4. The fourth respondent filed counter and Mr.Prakash Adiapadam, the learned counsel for the respondents 4 & 5 submitted that the fourth respondent is the only legal heir of the deceased Nalini Narayanan. In fact, in the ration card, the said Nalini Narayanan included the name of the fourth respondent as one of her family member and she had no issues. The subject properties were purchased by the said Nalini Narayanan from one Alexander Armel S/o. Selvanatha Mudaliar for valid sale consideration by the registered sale deed dated 04.01.1968 registered vide document No.14 of 1968. After purchase, she had been enjoying the same peacefully without any disturbance. The parents of the fourth respondent died during her childhood and as such she was under custody and care of the said Nalini Narayanan. Since she had no issues, she was declared as legal heir of the said Nalini Narayanan in OS.No.183 of 2021. While being so, the said Nalini Narayanan died on 14.03.2005. Utilising the said circumstances, some third party impersonated the said Nalini Narayanan and executed settlement deed in favour of one fake person called Meghala by impersonating some other person on 19.03.2012. In turn, the said Meghala executed power

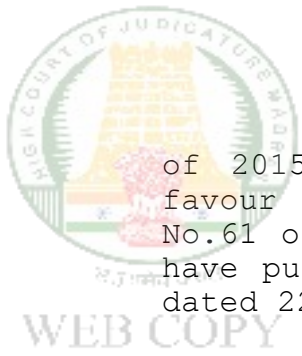


of attorney in favour of one, Sethuraman and in turn he sold out the property to one, Muthaiyan. From the said Muthaiyan, the petitioner purchased the subject property. Therefore, the fourth respondent lodged complaint before the second respondent. On receipt of the same, the second respondent conducted detailed enquiry as contemplated under Section 68(2) of the Registration Act, 1908 and annulled the aforesaid forged documents. In fact the second respondent issued notice to all the parties concerned and the petitioner appeared in person on 16.02.2021 and requested further time. Thereafter, he never appeared before the second respondent for enquiry. Finally, after conducting detailed enquiry on 30.07.2021, declared that the aforesaid transactions are fraudulent transactions and the documents involved in those transactions were fraudulent / fabricated and consequently directed the third respondent to reflect the same in the encumbrance certificate and also in the relevant records.

5. On instruction from the second respondent, Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents 1 to 3 submitted that the said Meghala is not the daughter of the Nalini Narayanan and the documents produced by the said Meghala are fabricated one. In turn, the said Meghala executed power of attorney in favour of one impersonated person called Sethuraman. Thereafter, the said Sethuraman executed sale deed in favour of the petitioner's vendor. Therefore, as per circular dated 09.07.2021, the second respondent conducted detailed enquiry and concluded that all the documents executed are fabricated one. That apart, the second respondent also directed the third respondent to lodge complaint as against the impersonators for appropriate action.

6. Heard, Mr.P.Dinesh Kumar, the learned counsel for the petitioner, Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents 1 to 3, and Mr.Prakash Adiapadam, the learned counsel for the respondents 4 & 5.

7. There is no quarrel that the subject property originally belonged to one, Nalini Narayanan. She purchased the subject property from one, Alexander Armel by the registered sale deed dated 04.01.1968 registered vide document No.14 of 1968 in the Office of the Sub Registrar, Vanur. She had no issues. On perusal of records, revealed that the fourth respondent is the II Class legal heir of the said Nalini Narayanan and she had been included in the ration card by the said Nalini Narayanan. Thereafter, she died on 14.03.2005. Whereas the said Nalini Narayanan was impersonated by other person and executed settlement deed in favour of one, Meghala who is also an impersonator on 19.03.2012 registered vide document No.1527 of 2012. The said Meghala executed power of attorney in favour of one, Sethuraman on 17.12.2015 registered vide document No.6780



of 2015. In turn, the said Sethuraman executed sale deed in favour of one, Muthaiyan on 06.01.2016 registered vide document No.61 of 2016. From the said Muthaiyan, the petitioner seems to have purchased the subject property by the registered sale deed dated 22.03.2019 vide document No.1475 of 2019.

8. Though the petitioner is a bonafide purchaser, the persons who executed sale deed in favour of the petitioner had no title over the property since the said Nalini Narayanan and Meghala were impersonated by other persons. The fourth respondent also produced records to show the identity of the said Meghala and her voter ID. In fact, the second respondent issued notice to the said Meghala in the address provided by the fourth respondent and on receipt of the same, no one appeared before the second respondent for enquiry. In fact, the power holder Sethuraman also received notice and he did not appear before the second respondent. Therefore, the second respondent rightly concluded that the said Nalini Narayanan had no issues and died on 14.03.2005. Therefore, she could not have executed any settlement deed in favour of the said Meghala who is no way related to the said Nalini Narayanan. However, in the capacity of daughter, the settlement deed was executed in her favour.

9. Further as per the circular dated 09.07.2021, the second respondent directed the third respondent not to entertain any deed of conveyance in respect of the subject property and declared that the settlement deed, power of attorney and the subsequent sale deed are forged / fraudulent / manipulated documents. Insofar as opportunity is concerned, the petitioner was duly served with notice from the second respondent. In fact, the petitioner also appeared before the second respondent for enquiry. Thereafter, conveniently he absented before the second respondent.

10. In respect of the power of the second respondent is concerned, the fourth respondent lodged complaint before the second respondent and on receipt of the same, the second respondent conducted enquiry as contemplated under Section 68(2) of the Registration Act, 1908. As per the provision, every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered. Therefore, the second respondent has got power to conduct enquiry under Section 68(2) of the said Act. As per the circular dated 09.07.2021, the second respondent has got power to direct the third respondent not to entertain any deed of conveyance in respect of the subject property.



11. In view of the above, this Court finds no infirmity or illegality in the order passed by the second respondent. Hence, the writ petition is devoid of merits and liable to be dismissed.

12. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

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To

1. The Deputy Inspector General,
Registration Department,
Cuddalore District.
2. The District Registrar(Administration),
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Near ICICI Bank, Murungapakkam,
Tindivanam 604 001.
3. The Sub Registrar,
No.2/97a, Mayilam Pandy Road,
Vanur, Villupuram 605 109.

+1cc to Mr.E.Anbarasan, Advocate, S.R.No.67297
+1cc to the Government Pleader, S.R.No.67514

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NSK 23/12/2021