



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.21110 OF 2021

D.Jothi Babu

... Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome, Chennai - 600 028.
2. The District Registrar (South),
Electronic Complex,
Block 111, 3rd Floor Plan,
Thiruvika Industrial Estate,
Chennai - 600 032.
3. The Joint-II,
The Sub-Registrar Office,
Saidapet,
Chennai - 600 015.
4. S.B.Shabir
5. Suma Harris Jayaraj

... Respondents

PRAYER:-

This Petition is filed under Article 226 of the Constitution of India, praying for to issue Writ of Mandamus directing the 2nd respondent to conduct enquiry on the complaint of the petitioner dated 26.04.2021, under Section 68(2) of Registration Act, 1908 and in terms of the circular dated 31.07.2018 & 09.07.2021, against tampering of registration records at the 3rd respondent Registrar's office relating to Document No.1226 of 1968 and against fraudulent registration of Document No.351 of 2011 and Consequently, to restore the petitioner's mother name D.Jayalakshmi in the registered copy of the sale deed in Document No.1226 of 1968 and to declare the document registered as Document No.351 of 2011 on the file of Joint-II Sub-Registrar Office, Saidapet as fraudulent and consequently to make necessary entries in the books for the purpose of reflecting in the Encumbrance certificate and pass orders accordingly.



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For Petitioner :: Mr.T.Sai Krishnan
For Respondents 1 to 3 :: Mr.V.Veluchamy
(Government Advocate)
For Respondents 4 & 5 :: No Appearance

O R D E R

This Writ Petition has been filed under Article 226 of the Constitution of India, praying for to issue Writ of Mandamus directing the the 2nd respondent to conduct enquiry on the complaint of the petitioner dated 26.04.2021, under Section 68 (2) of Registration Act, 1908 and in terms of the circular dated 31.07.2018 & 09.07.2021, against tampering of registration records at the 3rd respondent Registrar's office relating to Document No.1226 of 1968 and against fraudulent registration of Document No.351 of 2011 and Consequently, to restore the petitioner's mother name D.Jayalakshmi in the registered copy of the sale deed in Document No.1226 of 1968 and to declare the document registered as Document No.351 of 2011 on the file of Joint -II Sub-Registrar Office, Saidapet as fraudulent and consequently to make necessary entries in the books for the purpose of reflecting in the Encumbrance certificate and pass orders accordingly.

2.The learned counsel for the petitioner would submit that the petitioner's mother D.Jayalakshmi purchased the housing Plot No.358 in Nehru Nagar, Kottivakkam Village ad-mesuring an extent of 3150 Sq.ft. from the earlier owner M/s.CMDS Traders represented by its partners for valuable consideration in the year 1968 by way of a registered Sale Deed in Document No.1226 of 1968 on the file of the Sub-Registrar, Saidapet. The original of the said registered document is with the petitioner.

3. It has been further submitted that as the petitioner's mother died intestate on 12.04.2005 and the petitioners father had predeceased on 10.06.1997, the aforesaid property was inherited by the petitioner along with bother and sister as their legal heirs and the petitioner and his bother and sister are in possession and enjoyment of the above property. While being so, during the year 2012, the petitioner and his brothers and sister decided to sell the plots and therefore, they applied for the Encumbrance Certificate and also for mutation of Patta in their names. Upon seeing the Encumbrance Certificate, they were put to great shock that their mother's name was not mentioned and the Document No. 1225 of 1968 was also not mentioned and on the other hand, one Jayachandra kumar was mentioned as the owner and it was reflected as though he has



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sold the property through his power agent S.B.Shabir/ 4th respondent herein, to one Suma Harris Jayaraj/5th respondent herein, by way of Sale Deed in Document No. 351 of 2011. Some fake address is given as the address of said Jayachandra kumar in that document. It appears from the above that they had tampered with the registration records at the Registrar's office and they have illegally and fraudulently substituted the name of M.P.Jayachandra kumar as the Purchaser in the name of the petitioner's mother D.Jayalakshmi in the registered copy of the sale deed in Document No.1226 of 1968 that was maintained in the Ruled Sheet at the Office of the Registrar. The mere look at the different font of the sentence that has been fraudulently incorporated in the registration record (ruled sheet) would clearly show that the same has been tampered with, forged and fabricated in the most illegal and unlawful manner. Hence, the petitioner had lodged a complaint against the said persons with the Police. Pursuant to the same, enquiry was conducted and FIR was registered in Crime No.216 of 2016 against the following persons namely 1) M.P.Jayachandra Kumar, 2) S.B.Shabir, 3) Kuthbudhin. 4) Jospatric, 5) Staffs of Joint-II Sub Registrar Office, 6) Suma Harris Jayaraj for the offences under sections 419, 420, 465, 467, 460, 471 51205 of I.P.C. by the Inspector of Police, 17th Team, Anti Land Grabbing Cell-I Central Crime Branch, Chennai. Under such circumstances, the petitioner made a complaint to 2nd respondent herein on 02.07.2013 to initiate action for cancelling the registration of fraudulent document in respect of their property at the Joint-II Sub-Registrar Office, Saidapet. However, no action was taken against the same.

4. The learned counsel for the petitioner would further submit that as there is no action taken on the complaint made by the petitioner herein, the petitioner has filed Writ Petition in W.P No. 13911 of 2016 praying for a direction to enquire into the complaint and to take appropriate action before this Court. By order dated 15.04.2016, this Court was pleased to direct the 2nd respondent to conduct an enquiry on the complaint dated 02.07.2013 by affording opportunity of personal hearing and to pass appropriate orders on merits and in the light of Circular No.67 dated 03.01.2011 within a period of 12 weeks. Pursuant to the order of this Court, the 2nd respondent passed an order dated 22.07.2016 directing the 3rd respondent to file a complaint and to take appropriate steps for registering FIR. However, thereafter no steps were taken for cancellation of the wrongful registration of the forged documents.

5. The learned counsel for the petitioner would further submit that the office of the Inspector General of Registration, Chennai, has issued various circulars for dealing with the complaints on fraudulent registrations. As per the circular



dated 08.11.2017, the District Registrar(Admin) was directed to conduct enquiry under Section 68(2) of Registration Act, 1908 on the fraudulent registrations and to pass speaking order by way of the proceedings. Further, vide circular dated 31.07.2018 & 09.07.2021 the District Registrars were instructed to pass specific orders directing the Registering Officers for making entry in the relevant indexes and also in the copies of the documents to the effect that such registration of document is found as fraudulent vide proceedings of the District Registrar. Even though the aforesaid circulars were issued to the Registering officers, no such action was taken in respect of the aforesaid fraudulent registration. Under such circumstances, the petitioner has made a complaint dated 26.04.2021 to the 2nd respondent through registered post requesting to probe into the issue and conduct an enquiry on the aforesaid fraudulent registration under Section 68(2) of Registration Act, 1908 and in terms of circular dated 31.07.2018 & 09.07.2021 and to pass speaking order on the same and restore the petitioner's mother name in the registered copy of the sale deed in Document No.1226 of 1968 and pass specific orders directing the Joint-II Sub-Registrar Office, Saidapet to make entry in the relevant indexes and also in the copies of the documents that the Document No.351 of 2011 is registered fraudulently. Despite receipt of the aforesaid complaint, there is no response from the 2nd respondent till date. Hence, the petitioner is left with no other alternative and efficacious remedy except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India seeking for Writ of Mandamus directing the respondents as prayed for.

6. The learned Government Advocate for the respondents would submit that as the said document is said to have been registered in the fraudulent manner after substituting the name of M.P.Jayachandra kumar as purchaser in the name of the petitioner's mother in the registered copy of the Sale Deed in Document No.1226 of 1968, the said documents have to be sent to the Forensic Department to prove the same. After receiving the report from the Forensic department, the 2nd respondent may be directed to conduct an enquiry in this regard and pass appropriate orders on the complaint dated 26.04.2021 within a time frame as fixed by this Court.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, this Court directs the 2nd respondent to send the relevant documents which are said to have been registered fraudulently to the



Forensic Department to obtain their report in this regard. Based on the report of the Forensic Department, the 2nd respondent shall file complaint against the fraudulent persons who are involved in this illegal activity and pass appropriate orders on the complaint dated 26.04.2021 made by the petitioner herein on merits within a period of Six months from the date of receipt of copy of this order in accordance with law after affording sufficient opportunity to the petitioner herein and other necessary parties if any. It is made clear that this Court has not expressed any opinion with regard to the merits of the case.

9. In the result, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Lbm

To

1. The Inspector General of Registration,
Santhome, Chennai - 600 028.
2. The District Registrar (South),
Electronic Complex,
Block 111, 3rd Floor Plan,
Thiruvika Industrial Estate,
Chennai - 600 032.
3. The Joint -II,
The Sub-Registrar Office,
Saidapet,
Chennai - 600 015.

+1cc to Mr.T.Sai Krishnan, Advocate, S.R.No.51168
+1cc to the Government Pleader, S.R.No.51548

W.P.NO.21110 OF 2021

GJ(CO)
PBS/09/12/2021