

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.20188 of 2020
and WMP.No.24943 of 2020

1.H.Dadabai
2.Mohammed Jan
3.Ameena Bi

... Petitioners

Vs.

1.The Inspector General of Registration
Santhome
Chennai - 600 004.
2.The Deputy Inspector General of Registration
Salem District
Salem.
3.The District Registrar (Administration)
Krishnagiri District
Krishnagiri.
4.The Commissioner
Hosur Town Panchayat
Hosur
Krishnagiri District.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order issued by the third respondent in Na.Ka.No.4895/Uoo/2019 dated 05.10.2020 and to quash the same insofar as the directions relate to insertion of clause in Annexure II of the Settlement Deeds in Document Nos.12178 of 2011; 12179 of 2011 and 12081 of 2011 on the file of Sub Registrar, Hosur and the consequential directions for lodging criminal complaint against the petitioners are concerned.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.T.M.Pappiah
Special Government Pleader [R1 to R3]
Mr.E.Balamurugan
Special Government Pleader [R4]

ORDER

1.1 The brief facts based on which the petitioners herein have found a cause for their action to lay the present petition is that a block of land admeasuring 9.40 acres comprised in Survey Nos.740P, 1005P, 1009, 1010 and 1022 of Chennathur Village, Krishnagiri District, originally belonged to a certain Sivasubramaniam Chetty. While so, the said Sivasubramaniam Chetty appeared to have executed a General Power of Attorney in favour of one Aslam on 26.06.1989 for the purpose of developing the property into a layout. It appears in the proposed layout, a portion of the property was set aside for certain public purposes and also for laying the road. Even as this process was pending, the said Sivasubramaniam Chetty executed separate sale deeds both dated 27.12.1990 in favour of one Mohammed Jan and Anwar Basha and few others. The said Mohammed Jan is arrayed as the second petitioner herein. So far as Anwar Basha is concerned, he settled the property that he had purchased, in favour of his wife Ameena Bi, the third petitioner herein. Both the second and third petitioners in turn have executed the settlement deeds in favour of the first petitioner by separate settlement deeds, both dated 29.08.2011.

1.2 Be that as it may, Aslam, the Power of Attorney of Sivasubramaniam Chetty has subsequently developed the property and executed three separate gift deeds dated 15.03.1993, 15.07.1993 and 22.07.1993, transferring the roads and other spaces set aside for public amenities as provided in the layout to the concerned local body, which is arrayed here as the fourth respondent. It is in this background, the registering authority has initiated action against the petitioners, and the first respondent herein Vide his Circular dated 31.07.2018, and directed cancellation of the sale deeds settled in favour of the predecessor in title of the first petitioner as well as the settlement deed executed in favour of the petitioners as fraudulent and directed its cancellation.

1.3 It may however be necessary to mention that even prior to the circular of the first respondent dated 31.07.2018, the first petitioner herein, as plaintiff has already instituted a suit in O.S.No.112/2014 before the Additional District Court, Hosur, inter alia against the fourth respondent herein, who is arrayed as the fourth defendant in the said suit, for declaration of his title and the same is pending.

2. Be that as it may, acting on the complaint by the local body concerned, proceedings were initiated for cancellation of those title deeds in favour of the petitioners as fraudulent. Vide impugned proceedings dated 05.10.2020, the District Registrar

(Administration), Krishnagiri District, had directed the fourth respondent (the local body concerned) to work out the remedy to establish their title through the civil Court. In essence, this order does not affect the right of the petitioners. However, a few paragraphs before, the District Registrar has directed the concerned Sub-Registrar to cancel the title deeds in favour of the first petitioner's predecessor in title. The petitioners contend that they are aggrieved by this part of the impugned order.

3.1 There are certain apparent inconsistencies in the impugned order, since at one level, the District Registrar (Administration) directed the fourth respondent to work out its remedy before the Civil Court, and yet in another place, the District Registrar also directed cancellation of the title deeds of the predecessors in title of the first petitioner.

3.2 Since the Additional District Court, Hosur has already taken cognizance of the dispute as to title in O.S.No.112 of 2014, necessarily, the District Registrar (Administration), cannot direct cancellation of the title deeds of the predecessors in title of the first petitioner. At any rate, he does not have the authority to do so, irrespective of whether the suit is already laid for the purpose or not.

4. It is hence, this Court is constrained to state that the District Registrar (Administration), Krishnagiri, the third respondent herein has allowed certain contradictions to creep in the impugned order. Therefore, this Court modifies the prayer and restrain the registering authority not to cancel the title deeds of the predecessors in title of the first petitioner or otherwise notify that the documents registered in the Office of the Sub Registrar, Hosur as fraudulent (that part of the impugned order).

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar
//True Copy//

Sub Assistant Registrar

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To:

1.The Inspector General of Registration
Santhome
Chennai - 600 004.

2.The Deputy Inspector General of Registration
Salem District
Salem.

3.The District Registrar (Administration)
Krishnagiri District
Krishnagiri.

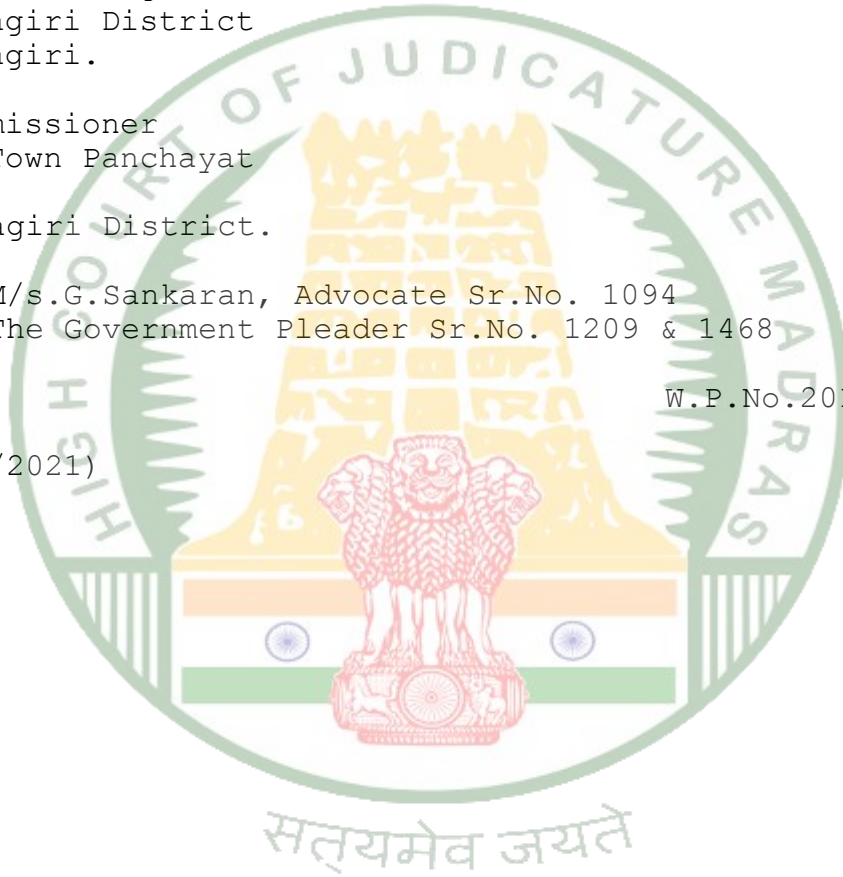
4.The Commissioner
Hosur Town Panchayat
Hosur
Krishnagiri District.

+1 cc to M/s.G.Sankaran, Advocate Sr.No. 1094

+1 cc to The Government Pleader Sr.No. 1209 & 1468

W.P.No.20188 of 2020

PL(CO)
RMP(30/03/2021)



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