

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.8515 of 2017

P.Venkatachalapathy

... Petitioner

-Vs-

1. The Inspector General of Registration
Registration Department,
100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Administration)
Registration Department,
Office of the District Registrar,
No.1, Moorthykal Lane,
Chennai - 1.
3. P.Sundaram

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider and pass appropriate order on the representation of the petitioner, dated 13.10.2016 addressed to the respondents in relation to the registration of his property measuring an extent of 0.21.5 ares in Survey No.100/9B of Vaniyamalli Village, Gummidipoondi Taluk, Thiruvallur District.

For Petitioner : Mr.M.Krishnamoorthy

For Respondents : Mr.P.Purushothaman,
Government Advocate for R1 and R2
Mr.N.R.Anantha Ramakrishnan for R3

O R D E R

The prayer sought for in this writ petition is for a writ of mandamus, directing the respondents 1 and 2 to consider and pass appropriate order on the representation of the petitioner, dated 13.10.2016 addressed to the respondents in relation to the registration of his property measuring an extent of 0.21.5 ares in Survey No.100/9B of Vaniyamalli Village, Gummidipoondi Taluk, Thiruvallur District.

2. It is the case of the petitioner that the land at Survey No.100/9B to the extent of 0.21.5 ares at Vaniamalli Village, Gummidipoondi Taluk, Thiruvallur District belongs to him and the said land, according to the petitioner, has been sold fraudulently by a sale deed, which was registered at the Sub Registrar Office, Gummidipoondi as Document No.184 of 2015. After coming to know the said fact, the petitioner, in order to cancel the sale deed and to conduct an enquiry to find out who are all involved in such a fraudulent transaction having been registered by the Sub Registrar concerned and to file a report to initiate disciplinary action as well as criminal action against them, the petitioner has given a representation to the first and second respondents on 13.10.2016, however, the said representation since has not been considered and no enquiry seems to have been conducted by the respondents and the matter has been still kept pending, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

3. Heard Mr.M.Krishnamoorthy, learned counsel appearing for the petitioner, who having reiterated the aforesaid, would seek indulgence of this Court to issue a suitable direction to the first and second respondents to conduct enquiry, on the representation of the petitioner dated 13.10.2016 in accordance with the provisions of the Registration Act and decide the issue accordingly.

4. Heard Mr.P.Purushothaman, learned Government Advocate appearing for the official respondents who would submit that, insofar as the plea raised by the petitioner to cancel the sale deed, which has already been registered is concerned, the said circular issued enabling the Registering Authority to cancel the sale deed since has been withdrawn, no such power is vested with the Registering Authority, therefore, the sale deed in question, cannot be cancelled by the Registering Authority and for the said purpose, the petitioner can approach the competent Civil Court to get declaratory decree.

5. However, insofar as his plea to conduct an enquiry to identify the erring officials of the Registration Department and others, for having registered the document in question, which according to the petitioner, is alleged fraudulent document, an enquiry can be conducted by the second respondent being the District Registrar, for the purpose of Section 83 of the Registration Act and ultimately, if anything wrong found against any of the officials and staff of the Registration Department, including the persons by whom such document has been presented for registration, certainly, criminal action can be initiated and only for the said limited purpose, an enquiry can be conducted on the representation of the petitioner dated 13.10.2016 by the first respondent within a time frame.

6. Heard Mr.N.R.Anantha Ramakrishnan, learned counsel appearing for the third respondent who would submit that, the said transaction alleged by the petitioner is not a fraudulent transaction and therefore, in this regard, no enquiry is required to be conducted and if at all, the petitioner is having any grievance with regard to the registration in question or the document in question, in order to rectify the same, he can do so, by approaching the Civil Court by filing an appropriate Civil Suit for declaratory decree.

7. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. As has been pointed out by the learned Government Advocate appearing for the official respondents that, the document once has been registered for sale of immovable property, the same cannot be cancelled by the Registering Authority, unless and until the Civil Court gives a decree to that effect declaring that sale deed is null and void. However, insofar as the allegation that, the transaction has been a fraudulent one and therefore, which culminated in the registration in Document No.1834 of 2015 is a fraudulent registration, certainly to that aspect, the second respondent i.e. the District Registrar can very well conduct an enquiry within the meaning of Section 83 of the Registration Act on the representation of the petitioner, dated 13.10.2016 within a time frame.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

That there shall be a direction to the respondents, especially the second respondent to act upon, on the complaint/representation of the petitioner dated 13.10.2016 and conduct an enquiry in this regard to find out the truth, whether any of the officials or staff of the Registration Department has involved in any fraudulent transaction or registration of the land in question and accordingly find out the truth and send a report to the first respondent for taking appropriate action, if anything, found against any officials or staff of the Registration Department. The needful, as indicated above, shall be completed by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order.

10. With this direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

tsvn/sgl

To

1. The Inspector General of Registration
Registration Department,
100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Administration)
Registration Department,
Office of the District Registrar,
No.1, Moorthykal Lane,
Chennai - 1.

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.26275

+1cc to Government Pleader SR.No.26769

W.P.No.8515 of 2017

BP (CO)
GMY (28/06/2021)

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