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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD) No.3294 of 2021

and

W.M.P. (MD) No.2638 of 2021

Chithiran

... Petitioner

-vs-

- 1.The Inspector General of Registration,
Chennai.
- 2.The District Registrar(Administration)
I/O. Deputy Inspector General of Registration,
District Registrar Office,
Trichy District.
- 3.The Sub Registrar,
Sub Registrar Office,
Trichy District.

4.V.Rathinam

... Respondents

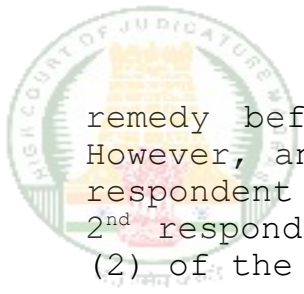
Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the order passed by the 2nd respondent in Muu.Mu.No.5403/Aa4/2019 dated 03.02.2021 and quash the same.

For Petitioner : Mr.C.Vakeeswaran
For R1 to R3 : Mr.K.Sathiyasingh
Additional Government Pleader

ORDER

The grievance of the petitioner herein in nutshell is that a complaint was made by the 4th respondent on 11.11.2016 to the 2nd respondent to cancel the document executed by the petitioner's father and his brothers in respect of the release deed and settlement deed and the sale deed executed by the petitioner in certain document numbers on the ground that the legal heirship certificate obtained by his father and his brothers were forged.

2.According to the 4th respondent, the documents were fraudulently created and therefore, the same ought to be cancelled. In fact, there are complaints before the jurisdictional police and a criminal case has also been registered in some crime numbers. Originally, the complaint was made before the 2nd respondent and he disposed off the same, directing the 4th respondent to workout his



remedy before the civil Court, by proceedings dated 28.03.2017. However, an appeal was preferred by the 4th respondent before the 1st respondent and the 1st respondent remanded the complaint back to the 2nd respondent to hold an enquiry and pass orders under Section 68 (2) of the Registration Act.

3. In pursuance of the remand, the parties were heard, including the petitioner and his father and finally, an order was passed on 03.02.2021 by the 2nd respondent, holding that the legal heir certificate was a forged one and he directed the 3rd respondent to take criminal action against the petitioner and others and the 2nd respondent has held that the documents, which were the subject matter of complaint, were forged one. Therefore, directing the State authorities to take further action as against the order dated 03.02.2021 of the 2nd respondent, the present writ petition has been filed.

4. In the impugned order itself, it has been clearly indicated that an appeal remedy is available under the provisions of the Registration Act and if the parties are so advised, the same can be filed within a period of 60 days from the date of the order. Without exhausting the effective appeal remedy available in the Registration Act itself as indicated in the impugned order, the petitioner has chosen to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. This Court is not inclined to entertain the writ petition for more than one reason.

5. From the entire averments as narrated in the affidavit filed in support of this writ petition, it could be seen that there were numerous transactions in respect of the properties, which are the subject matter of the dispute and certainly in exercising of writ jurisdiction, this Court would not be in a position to appreciate the claim and counter claim of the parties. Therefore, proper remedy for the petitioner is to exhaust the appeal remedy available under the relevant statute as indicated in the impugned order itself. In a matter of dispute of this nature, which involves extensive appreciation of facts, the appellate authority is the proper person to appreciate the claim and the counter claim of the parties, in terms of the factual dispute and arrive at a conclusion in the appeal.

6. Moreover, merely on the basis of the averments as contained in the affidavit, such dispute as between the parties cannot be settled by this Court. This Court, in appreciating the case of the petitioner, has to necessarily traverse beyond the legal remedies and would be forced embark upon the factual controversies, which cannot be settled by this Court merely on the basis of the claim and counter claim of the parties in the affidavit. Therefore, this Court's jurisdiction cannot be extended to the matter of settlement of dispute of this nature and the proper course for the parties is to exhaust the appeal remedy or to approach the competent civil Court.



7. In the above circumstances, this Court finds that the writ petition is not maintainable and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Inspector General of Registration,
Chennai.

2. The District Registrar (Administration)
I/O. Deputy Inspector General of Registration,
District Registrar Office, Trichy District.

3. The Sub Registrar,
Sub Registrar Office,
Trichy District.

+1 CC to Mr. C. VAKESWARAN, Advocate (SR-6118[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6471[F] dated 22/02/2021)

W.P. (MD) No. 3294 of 2021
19.02.2021

VB (12.03.2021) 3P 6C