



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.02.2021

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.M.P. (MD)No.2954 of 2021

and

W.P. (MD) SR No.9594 of 2021

WEB COPY

- 1.Stephen
- 2.Balasubramani
- 3.Antony Benito
- 4.R.Boopathy
- 5.S.JanMadlinShiyama

... Petitioners

-vs-

- 1.The Inspector General of Registration,
100, Santhome High Road,
Mullai Nagar,
Chennai - 600 020.

- 2.The District Registrar,
Kanyakumari District,
Kanyakumari.

- 3.The Sub Registrar,
Kottaram Sub Registrar Office,
Kottaram,
Kanyakumari District.

- 4.The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.
(FIR in Crime No.53/2015)

- 5.S.Meenatchi
- 6.S.Kala
- 7.S.Singhal

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to permit the petitioner to file single Writ Petition under Rule 2B of Appellate Side Rules.

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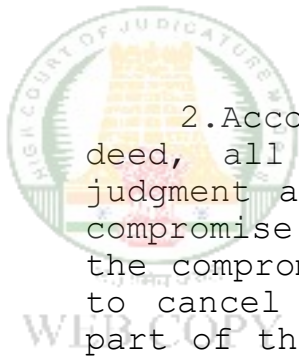
... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the third respondent to remove the encumbrance from book I to V in respect of the impugned General Power of Attorney in Doc.No.2519/2016, dated 10.08.2016 executed by and between the respondents 5 to 7 and to remove the entry from the encumbrance book I to V with regard to New Survey No.545/5 (Old Survey No.5967) measuring an extent of 11.3/8 cents, Agastheeswaram Village, Kanyakumari Municipality, Agastheeswaram Taluk, Kottaram Sub District, Kanyakumari Registration District, Kanyakumari District, on the basis of the Judgement and Decree in Civil Suit in O.S.No.8 of 2017 dated 15.10.2019 on the file of the I Additional District Munsif Court, Nagercoil, as well as the "Action Drop Report" in FIR in Crime No.53 of 2015, dated 11.08.2015 filed by the fourth respondent police.

For Petitioner : Mr.P.M.Vishnuvarthanan

ORDER

According to these petitioners, there was a dispute between them on one side and on the private respondents on the other in regard to the subject property. There were criminal as well as civil proceedings and finally, culminated in a compromise deed dated 05.09.2019 on the basis of which the respondents 5 to 7 withdrew the suit filed by them in O.S.No.8 of 2017 which was initiated against the interests of the petitioners.



2. According to these petitioners that by way of compromise deed, all issues that came to be settled out of Court and the judgment and decree was also passed on 15.10.2019 in terms of the compromise. The grievance of the petitioners herein is that despite the compromise decree, the respondents 5 to 7 have not come forward to cancel the General Power of Attorney deed dated 10.08.2016 as part of the compromise conditions. The action of the respondents 5 to 7 in not coming forward to cancel the power of attorney amounted to going back on their compromise and against judgment and decree of the Civil Court and in that circumstances, this Writ Petition has been filed seeking direction to remove the entry of encumbrance in the revenue records maintained by the officials concerned and also close the FIR.

3. This Court is not unable to comprehend as to how such Writ Petition could be conceived in the first place and maintained before this Court. The entire dispute appears to be a fall out of the earlier compromise judgment and decree of the Civil Court and in case, is there any violation on the part of the respondents 5 to 7 in complying with the judgment and decree of the Civil Court which is entirely within the right of the petitioners to work out their remedies in a manner known to law but it is certainly not open to these petitioners to convert the Constitutional jurisdiction of this Court into a Execution Court of a Civil Court decree.

4. This Court is clearly of the view that in the matters like this, the Writ jurisdiction cannot be invoked so casually and so recklessly when there are avenues open to them providing remedies in such matters elsewhere. Even otherwise, the present attempt to get direction from this Court amounted to belittling the Constitutional status of this Court into one of a executing Court of a Civil Court decree, such attempt must be deprecated and rejected.

5. Therefore, the Writ Miscellaneous Petition is dismissed. Consequently, connected W.P.(MD) SR No.9594 of 2021 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

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3.The Sub Registrar,
Kottaram Sub Registrar Office,
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Kanyakumari District.

4.The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

+1CC to Mr.P.M.Vishnuvarthanan,Advocate SR.No.7393 dated 25/02/2021

W.M.P. (MD)No.2954 of 2021

and

W.P. (MD) SR No.9594 of 2021
24.02.2021

SSS (CO)

KB(08.04.2021) 4P 6C