



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.4938 of 2021

M.Thirupathi

.. Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Manthavelipackam,
Rana Annamalaipuram,
Chennai 600 028.

2.The District Registrar,
Registration Department,
Periyakulam,
Theni District.

3.The Sub Registrar,
Andipatti Sub Registrar Office,
Andipatti,
Theni District.

4.K.Durai @ Thiruvannamalai.

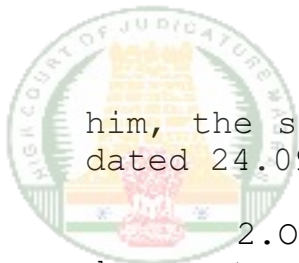
.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding in Na.Ka.No.39/E2/2021 dated 05.01.2020 issued by the 2nd respondent and to quash the same and to consequently directing the 3rd respondent to take action under Section 83 of the Registration Act, 1908 as per the 1st respondent Circular in Letter No.41530/U1/2017 dated 08.11.2017 and to direct the 2nd respondent to initiate the mandatory procedure prescribed in 1st respondent Circular in Letter No.41530/U1/2017 dated 08.11.2017.

For Petitioner	:	Mr.V.Santhakumaresan
For R1 to R3	:	Mr.K.Sathiya Singh
		Additional Government Pleader

ORDER

According to the petitioner, he along with his relatives had purchased a house site jointly measuring an extent of 14 cents in S.No.2200 through a registered sale deed No.1409/1936 on 25.08.1936. The house site was purchased for the purpose of constructing a Pillaiyar Temple. According to him, in the month of January, 2021, the 4th respondent attempted and trespassed into the disputed Arulmighu Vadakku Puthu Theru Vazhipillaiyar Temple and the 4th respondent claims to have title over the property as according to



him, the same has been gifted to him as per gift deed No.5268/2019, dated 24.09.2019.

2. On enquiry, the petitioner found 4 certified copies of the documents, which had been wrongly gifted in favour of the 4th respondent and those documents have been wrongly registered by the 3rd respondent at the instance of the 4th respondent and in that regard, the petitioner submitted a representation to the 3rd respondent on 04.01.2021 to take action against the 4th respondent, to cancel the document dated 24.09.2019 and not to register any future document in respect of the subject property. At this, the 3rd respondent appears to have passed an order dated 05.01.2021, rejecting the request of the petitioner on the ground that it is not within his power to cancel the deeds, which were registered already and advised the petitioner to approach the competent civil Court. Challenging the same, the writ petition has been filed.

3. When the matter is taken up for hearing today under the caption for admission, the learned Additional Government pleader appearing for the respondents 1 to 3 has produced a copy of the circular issued by the 1st respondent, dated 31.07.2019, wherein, it had been stated that in such matters, an appeal remedy is available before the 1st respondent herein and without exhausting the same, the present writ petition has been filed.

4. In view of the submission of the learned Additional Government Pleader, proper course for the petitioner is either to approach the civil Court or file an appeal before the 1st respondent herein and it is certainly not open to the petitioner to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. In view of the appeal being provided through the instructions issued by the Registration Department and also the alternative remedy for the petitioner is to approach the civil Court, in terms of the directive of the 2nd respondent as mentioned in the impugned order, dated 05.01.2021, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition stands dismissed as not maintainable. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The Inspector General of Registration,
100, Santhome High Road,
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2.The District Registrar,
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+1 CC to M/s.SPL GP (SR-10101[F] dated 10/03/2021)

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SGS(CO)
KB(16.04.2021) 3P 5C