



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.6682 of 2021

and

W.M.P.[MD]No.5155 of 2021

Valliyammai

...Petitioner

Vs.

- 1.The Inspector General of Registration,
Santhome High Road, Pattinapakkam,
Chennai - 2.
 - 2.The District Registrar (Admin),
Pudukkottai Registration District,
Pudukkottai District.
 - 3.Sub Registrar, Kulathur,
Pudukkottai District.
 - 4.Lakkaiyan
- ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent to pass orders on the petitioner's application dated 22.01.2021 seeking to take action against fraudulent registration of documents qua the lands of the petitioner made in Document No.1854 of 2004 dated 05.08.2004 and Document No.1828 of 2007 dated 02.05.2007 on the file of the third respondent in the light of the circular of the first respondent in LR.No.41530/U1/2017 dated 08.11.2017 within the time that may be stipulated by this Court.

For Petitioner :Mr.M.Mahaboob Athiff

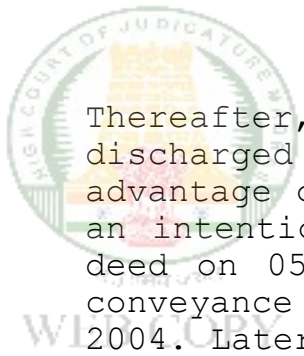
For Respondents 1 to 3 :Mr.K.Sathya Singh

Additional Government Pleader

O R D E R

The petitioner is a senior citizen and a resident of Mandaiyur, Pudukkottai District. A property to an extent of 2 Acres and 82 cents in New Survey No.780/3, Old Survey No.293C/4, has been in possession and enjoyment of the petitioner since 1974. The patta in respect of the said property also stood in the name of the petitioner as Patta No.1467.

2.The petitioner has availed financial assistance from Viralimalai Co-operative Agricultural Bank to the tune of Rs.30,000/- on 25.03.1997, by mortgaging the subject property.



Thereafter, the petitioner appears to have redeemed the mortgage and discharged all the dues. According to the petitioner, taking advantage of her old age and illiteracy, the fourth respondent with an intention of grabbing the land, appears to have executed a sale deed on 05.08.2004 in favour of one Amsa by a fraudulent deed of conveyance and the same was also registered as Document No.1854 of 2004. Later, the said person has obtained the power of attorney from the said Amsa and sold the subject property by creating an other fabricated document in Document No.1828 of 2007.

3. According to the petitioner, the transactions have been done fraudulently and the perpetrators have taken advantage of the petitioner's old age and illiteracy. However, the petitioner came to know that the Registering authority can initiate action for prosecuting the offenders for committing fraud upon the department under Section 68 of the Registration Act. A circular has also been issued by the first respondent under Section 68(2) dated 08.11.2017, providing for holding enquiry relating to complaints of fraudulent registration and against those involved in fraudulent registration of documents.

4. Learned Counsel appearing for the petitioner would submit that the circular issued under Section 68(2) mandates the authorities to hold an enquiry on fraudulent registration. The petitioner has submitted a representation on 17.10.2020 and 02.11.2020, seeking his intervention in this matter in terms of the said provision. Thereafter, the petitioner's son appears to have approached this Court in W.P.[MD]No.18116 of 2020, seeking to cancel the fabricated registered deeds. However, he was advised that a writ petition in respect of the property of his mother cannot be filed individually by him and maintain the same. Therefore, the writ petition was withdrawn on 03.03.2021, with liberty to file a fresh writ petition in the name of the present petitioner.

5. Learned Counsel would also submit that this Court has granted a direction in identical issues in W.P.[MD]No.18952 of 2020 dated 19.02.2021 and W.P.[MD]No.5805 of 2018 dated 19.11.2020.

6. According to the petitioner, despite representations, dated 17.10.2020 and 02.11.2020, so far no action has been initiated by the first respondent.

7. Learned Additional Government Pleader for the respondents 1 to 3 would submit that the second respondent is under the legal obligation to hold an enquiry and in case, he is satisfied that there was a fraudulent registration, it is for the second respondent to take forward his enquiry report. Therefore, according to him, if any direction is issued by this Court with a stipulation of a time frame, the same would be duly complied with by the second respondent.



8.In consideration of the above, the writ petition is disposed of with a following direction:

"the second respondent is directed to consider the representations of the petitioner dated 17.10.2020 and 02.11.2020 and hold an enquiry in terms of the provisions of the Registration Act and conclude the same within a period of eight [8] weeks from the date of receipt of a copy of this order. It is also made clear that if the second respondent finds truth in the allegation of the petitioner, it is open to the second respondent to initiate appropriate action in terms of the provisions of the Act. In any case, the second respondent is directed to communicate the copies of the enquiry report and any other proceedings to the petitioner."

10.The Writ Petition stands disposed of, accordingly. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

- 1.The Inspector General of Registration,
Santhome High Road, Pattinapakkam,
Chennai - 2.
 - 2.The District Registrar (Admin),
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Pudukkottai District.
 - 3.Sub Registrar, Kulathur,
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- +1 CC to M/s.SPL GP (SR-15359[F] dated 07/04/2021)

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