



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P. (MD) No.8451 of 2020

and W.M.P. (MD).No.7834 of 2020

WEB COPY

T.Mathesan

...Petitioner

Vs.

1.The District Registrar (Administration),
Registration Department,
Cantonment,
Tiruchirappalli - 620 001.

2.The Sub Registrar,
Thiruverumbur Sub Registrar's Office,
Thiruverumbur,
Tiruchirappalli District - 620 014.

3.A.Vadivel

4.K.Ravichandran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent culminated in the registered sale deed No.1091/2014, dated 26.02.2014 and registered sale deed No.1751/2014, dated 02.04.2014, which have been registered with the Sub Registrar's Office, Thiruverumbur, Tiruchirappalli and quash the same as illegal, void and not binding on the petitioner and consequentially direct the 2nd by way of Mandamus to remove the entry made as Document Nos.1091/2014, dated 26.02.2014 and 1751/2014, dated 02.04.2014, in Book I in the Office of the Sub Registrar, Thiruverumbur, Tiruchirappalli.

For Petitioner : Mr.Shangar Murali

For Respondent : Mr.K.Sathiya Singh for R1 and R2
Additional Government Pleader

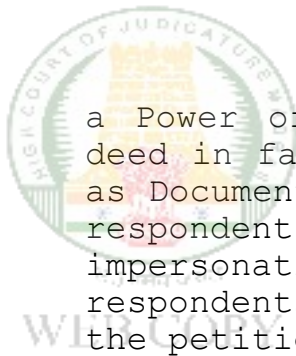
Mr.A.Chandrakumar for R4

O R D E R

This writ petition has been filed challenging the sale deed registered on the file of the second respondent as Document Nos.1091/2014 and 1751 of 2014 and for a consequential direction to the second respondent to remove the entry made in the records pertaining to the sale deed.

2.The case of the petitioner is that the subject property belongs to him absolutely. The third respondent claiming himself as

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a Power of Attorney Agent to the petitioner, has executed a sale deed in favour of the fourth respondent and the same was registered as Document Nos.1091/2014 and 1751 of 2014 on the file of the second respondent. According to the petitioner, it is a case of impersonation and fraud and the entire transaction was done by the respondents 3 & 4 only with a view to grab the property belonging to the petitioner.

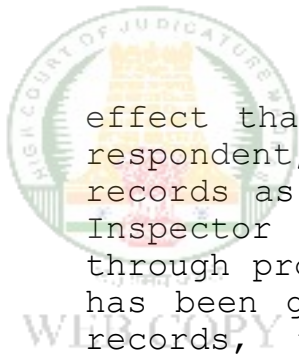
3.The petitioner, therefore, made a complaint before the District Registrar, namely, the first respondent. The District Registrar, by proceedings, dated 15.06.2020, after affording opportunity to all the parties concerned, came to a categorical conclusion that there is an impersonation in this case and fraudulent Documents have been created. However, taking into consideration the suit filed in O.S.No.733 of 2019 by the purchaser of the property, namely, the fourth respondent herein, the first respondent directed the parties to work out their remedy in the pending suit.

4.The petitioner has approached this Court on the ground that pursuant to the orders passed by the first respondent, Rule 118 of the Registration Rules mandates entry to be made in the records, wherever, a fraudulent document has been registered and the same has not been done in this case. The further grievance of the petitioner is that pursuant to the findings given by the first respondent, the second respondent ought to have registered a complaint before the police against the respondents 3 and 4 and the same has also not been done in the present case. Therefore, according to the petitioner, in spite of there being a finding given by the first respondent to the effect that there is an impersonation and fraudulent documents have been registered, there is absolutely no consequential action that has been taken and thereby, the petitioner has been left in lurch. Aggrieved by the same, the present writ petition has been filed before this Court.

5.Heard Mr.Shangar Murali, learned counsel for the petitioner, Mr.K.Sathiya Singh, learned Additional Government Pleader, for the respondents 1 and 2 and Mr.A.Chandrakumar, learned counsel for fourth respondent.

6.There is no dispute with regard to the fact that the first respondent has conducted an enquiry and passed an order through the proceedings, dated 15.06.2020 and given a categorical finding that there is an impersonation in this case and fraudulent documents have been created. The first respondent after having given such a finding, had directed the parties to work out their remedy in the suit filed by the fourth respondent in O.S.No.733 of 2019, wherein, the fourth respondent has sought for the relief of permanent injunction.

<https://hcservices.ecourts.gov.in/hcservices/> considered view of this Court, when a finding to the



effect that there is a fraudulent transfer, is given by the first respondent, it has to be followed up with an entry made in the records as per Rule 118 of the Registration Rules. That apart, the Inspector General of Registration has already issued a Circular through proceedings, dated 18.07.2018, wherein, a specific direction has been given to all the Sub Registrars to make an entry in the records, wherever, fraudulent transfers have been registered. Therefore, there is no escape from the fact that an entry has to be necessarily made by the second respondent in the concerned records maintained in the Sub Registration Office. There is yet another consequence that will follow, where, such a finding is given by the District Registrar. Sections 82 and 83 of the Registration Act contemplate initiation of criminal proceedings by the concerned Sub Registrar, wherever, there is a fraudulent transfer of properties.

8.The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2, on instructions, submitted that the second respondent based on the order passed by the first respondent filed a complaint before the concerned police and the same is yet to be acted upon by the police and therefore, the second respondent cannot be blamed for inaction on the part of the police.

9.Taking into consideration the facts and circumstances of the case and in view of the above discussion, there shall be a direction to the second respondent to immediately make an entry in the concerned records regarding the order passed by the first respondent through proceedings, dated 15.06.2020, in line with the circular of the Inspector General of Registration, dated 18.07.2018 and the relevant Registration Rules, within a period of two weeks from the date of receipt of a copy of this order. There shall also be a direction to the second respondent to make a representation before the concerned police along with the copy of this order and the concerned police shall immediately act upon the complaint and register an FIR and proceed further with the investigation. If the fourth respondent claims that he is an innocent purchaser, it is for him to substantiate the same in the pending suit and before the police in the course of investigation. For the present, this Court cannot give any finding on the stand taken by the fourth respondent.

10.In spite of the entry that is going to be made by the second respondent in the records, the sale deed that was held to be fraudulent is going to get reflected in the Encumbrance Certificate. This entry has to be reversed and it will be adding insult to injury it, the petitioner is asked to go to the Civil Court and seek for one more declaration to declare the documents as null and void. Therefore, there will be a further direction to the second respondent to register this order and reflect the same in the Encumbrance Certificate. This order will effectively reverse the earlier entries that were made while registering the sale deeds in Document No. 1091/2014 and 1751 of 2014.



11.This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

TM

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1.The District Registrar (Administration),
Registration Department,
Cantonment,
Tiruchirappalli - 620 001.

2.The Sub Registrar,
Thiruverumbur Sub Registrar's Office,
Thiruverumbur,
Tiruchirappalli District - 620 014.

+1 CC to M/s.SHANKAR MURALI, Advocate (SR-16890[F] dated 21/04/2021

+1 CC to M/s.SPL GP (SR-16972[F] dated 21/04/2021)

W.P. (MD) No.8451 of 2020

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PSP(12.05.2021) 4P 5C