



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10326 of 2021

Periyasamy

...Petitioner

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

2.The Deputy Inspector General of Registration,
Madurai Region,
Y.Othakadai,
Madurai.

3.The District Registrar,
District Register Office,
Muthupattinam,
Karaikudi, Sivagangai District.

4.The Sub Registrar,
Sub Register Office No.1,
Karaikudi,
Pudukottai District.

5.M.Raju

6.R.Kalimuthu

....Respondents

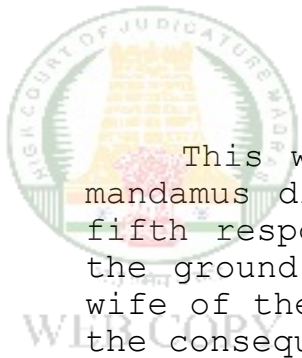
Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent No.3 to take action against the Respondent No.5 with regard to the power deed in Document No.42/2014 dated 07.01.2014 on the file of Respondent No.4 as per Section 83 of "The Registration Act, 1908" and on the basis of the proceedings of the Respondent No.1, dated 08.11.2017 in Letter No.41530/U1/2017 and initiate criminal prosecution, within the time frame stipulated by this Court.

For Petitioner

: Mr.T.Lajapathi Roy

For R1 to R4

: Mr.M.Lingadurai
Government Advocate



ORDER

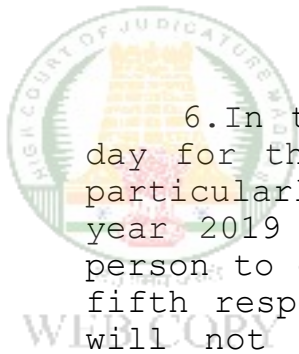
This writ petition has been filed for the issuance of writ of mandamus directing the first respondent to take action against the fifth respondent based on the complaint given by the petitioner on the ground that a document has been fraudulently obtained from the wife of the petitioner and the same was registered on 07.01.2014 and the consequential sale deed was registered on 20.01.2014.

2.The case of the petitioner is that the subject property originally belonged to the wife of the petitioner and she was also given a patta in patta No.596. It is claimed that the property was in her possession and enjoyment. The further case of the petitioner is that the fifth respondent is a practising Advocate and the wife of the petitioner had approached him for the purpose of rectifying the name in the patta that was granted in favour of the wife of the petitioner. At that point of time, it is alleged that the fifth respondent had mislead the wife of the petitioner and taking advantage of her illiteracy had fraudulently created a Power of Attorney document, which was registered on the file of the 4th respondent, on 07.01.2014. By taking advantage of this document, a sale deed also came to be executed by the 5th respondent in favour of the 6th respondent and the same was also registered on the file of the fourth respondent on 20.01.2014.

3.It is stated that the wife of the petitioner was taking several steps to recover the property from the 5th and 6th respondents, since the entire transaction was fraudulent. However, unfortunately, the wife of the petitioner expired on 19.08.2019. Thereafter, the petitioner has made a representation to respondents 1 to 3, on 07.03.2021, to conduct an enquiry and to initiate proceedings against the fifth respondent on the ground that the Power of Attorney document has been fraudulently obtained in the year 2014. Since the same was not considered, the present writ petition has been filed before this Court for appropriate directions.

4.Heard Mr.T.Lajapathi Roy, the learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate, appearing for the respondents 1 to 4.

5.In the considered view of this Court, a document that was registered in the year 2014 is sought to be questioned by the petitioner in the year 2021. Even during the life time of the wife of the petitioner, a suit ought to have been filed before the competent civil Court questioning the validity of those documents, since a plea of fraud has been raised. Unfortunately, this has not happened. In the meantime, the wife of the petitioner has also expired in the year 2019. Thereafter, the petitioner had made a representation in the year 2021, seeking for action against the 5th respondent.



6.In the considered view of this Court, it is too late in the day for the official respondents to initiate any action and more particularly, since the wife of the petitioner has expired in the year 2019 itself. The wife of the petitioner will be the right person to explain as to how the fraud was played against her by the fifth respondent. Even if a direction is issued by this Court, it will not be possible for the official respondents to give any finding on the aspect of fraud that is said to have committed by the fifth respondent.

7.In view of the above discussion, this Court does not find any ground to entertain this writ petition and if at all the petitioner is aggrieved by the transaction that had taken place in the year 2014 on ground that it is a fraud played against the wife of the petitioner, it is for the petitioner to approach the competent Civil Court, if so advised and if the law permits.

8.In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)

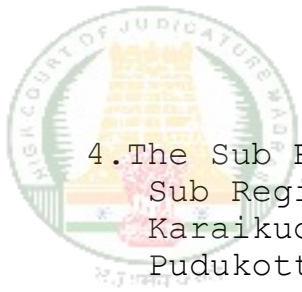
TM

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 Inspector General of Registration
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- 2.The Deputy Inspector General of Registration
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Muthupattinam
Karaikudi, Sivagangai District



4.The Sub Registrar
Sub Register Office No.1
Karaikudi
Pudukottai District.

+1 CC to M/s.T.LAJAPATHYROY, Advocate SR-19828[F] dated 22/06/2021
+1 CC to M/s.SPL GP (SR-19904[F] dated 22/06/2021)

W.P. (MD) .No.10326 of 2021
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MJ(CO)
TR(30.06.2021) 4P 7C