



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2021**

CORAM:

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.12154 of 2021

D.Senthilkumar

... Petitioner

Vs.

1.The District Registrar, (Administration),
Cantonment, Court Campus,
Trichy District.

2.The Joint Sub Registrar No.I,
Cantonment, Court Campus,
Trichy District.

3.L.K.Prabakaran

4.Kamalam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to do the necessary entry in the index based on the order passed by the 1st respondent dated on 16.10.2017 in Na.Ka.No.6052/A4/2017 and as well as a circular bearing Letter No.41530/U1/2017 dated 31.07.2018 issued by the Inspector General of Registrar, Chennai, within a stipulated time fixed by this Court.

For Petitioner : Mr.Senthilkumar.A

For Respondents : Mr.R.Surehkumar,
Government Advocate for R1 & R2

ORDER

This writ petition has been filed for the issue of a writ of Mandamus, directing the first and second respondents to make necessary entries in the index based on the circular issued by the Inspector General of Registration, dated 31.07.2018.

2.The case of the petitioner is that the first respondent through an order, dated 16.10.2017, after conducting an enquiry, had categorically held that the transaction that took place between the third and fourth respondents is a fraudulent transaction. It is



also seen from records that the third respondent had approached this Court and filed W.P.(MD).No.23927 of 2017 and the Division Bench of this Court by an order, dated 18.04.2018, had taken note of the orders passed by the first respondent, on 16.10.2017 and had dismissed the writ petition.

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3.The grievance of the petitioner is that the first and second respondents ought to have notified this order passed by the first respondent in the index in accordance with the circular, dated 31.07.2018. Since it was not notified, the present writ petition has been filed before this Court.

4.Heard Mr.A.Senthilkumar, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents 1 and 2.

5.The issue that is involved in the present writ petition is squarely covered by the earlier order passed by this Court in W.P.(MD).No.10177/2021, dated 17.06.2021. The relevant portions in the order are extracted hereunder:

"12. It is clear from the above circular that the order passed by the competent Authority declaring a transaction to be a fraudulent one and where such order has become final, necessary entry has to be made in index. That apart, a foot note must also be made in the relevant copies of the documents. This safeguard is being given only to ensure that an innocent third party should be made aware that such an order has been passed and that he is not misled to enter into a transaction with regard to a document, which has been held to be a fraudulent one. This procedure will at least save the time of the real owner of the property, who need not unnecessarily knock the doors of a Civil Court.

13. It is made clear that this procedure must be scrupulously followed in all cases, where the transaction has been declared to be a fraudulent one by the competent Authority and such order has become final. The Inspector General of Registration shall refer to this order and issue a circular to all the Sub Registrar Offices across Tamil Nadu and direct them to strictly follow the directions issued in the earlier circular dated 31.07.2018.

14. In view of the above, this Court is inclined to interfere with the impugned communication of the third respondent and accordingly, the same is quashed. There shall be a direction to the third respondent to take steps



to record the proceedings of the second respondent, dated 30.04.2019 in the relevant books and the same should be reflected in the Encumbrance Certificate. This will effectively reverse the earlier entry that was made when the sale deed was executed in favour of the fifth respondent and which has been subsequently held to be a fraudulent transaction. This process shall be completed by the third respondent within a period of two weeks from the date of receipt of a copy of this order."

6.It is clear from the above that this Court had directed the Registering Authority to make necessary entry in the index, wherever, a transaction is found to be fraudulent and to make a necessary footnote in the relevant copies of the documents. This Court had directed this procedure to be consistently followed in all the cases and necessary directions was also given to the Inspector General of Registration at paragraph No.13 of the above order.

7.In view of the above, there shall be a direction to the second respondent to make necessary entry in the index based on the order passed by the first respondent, dated 16.10.2017, as per the circular issued by the Inspector General of Registration, dated 31.07.2018 and as per the directions issued by this Court in W.P. (MD).No.10177 of 2021. This process shall be completed by the second respondent, within a period of four weeks from the date of receipt of a copy of this order.

8.This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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),
Cantonment, Court Campus,
Trichy District.

2.The Joint Sub Registrar No.I,
Cantonment, Court Campus,
Trichy District.

+1 CC to M/s.GP (SR-23299[F] dated 20/07/2021)

Order made in
W.P. (MD) .No.12154 of 2021
Dated : 19.07.2021

cm(CO)

TR(02.08.2021) 4P 4C