



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.12175 of 2021

1.A.V.Dhakshnamoorthy
2.K.Vijayarengan
3.K.Sriraman

... Petitioners

Vs.

1.The District Registrar (Administration),
O/o.District Registrar Office,
Tirunelveli.

2.The Sub-Registrar,
O/o.Nanguneri Sub-Registrar Office,
Nanguneri,
Tirunelveli District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to conduct enquiry based on the representation, dated 29.06.2021 to pass an appropriate order by making necessary endorsements of fraudulent transaction on the documents registered by the respondents 1 and 2 herein in respect of the patta lands and other joint pattadars in patta No.1801 in respect of the properties comprised in Survey No.177A/1, S.No.177B/2 and S.No.176A/1B vide Patta No.1994 situated in Elangulam Village, Nanguneri Taluk, Tirunelveli District and to remove the entries in the Encumbrance certificate by invoking the circular vide Letter No.41530/U1/2017, dated 09.04.2018 and 31.07.2018 issued by the Inspector General of Registration, Chennai.

For Petitioners : Mr.S.Srinivasaraghavan

For R-1 & R-2 : Mr.M.Lingadurai,
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the first and second respondents to conduct an enquiry based on the representation made by the petitioners on 29.06.2021, wherein, the petitioners are questioning the fraudulent transactions that had taken place and for a further direction to the respondents to make necessary entries in the Index as per the



Circular, issued by the Inspector General of Registration, dated 31.07.2018 and directions issued by this Court in W.P.(MD).No.10177 of 2021, dated 17.06.2021.

2. The case of the first petitioner is that his father and his uncle were the absolute owners of the subject properties and patta was also issued in their favour in Patta No.1801. The further case of the first petitioner is that his father and his uncle had hypothecated the property by executing a registered mortgage deed in the year 1972. That apart, a portion of the property was also acquired for the Adi Dravidar Welfare Board and an award was also passed in the year 1995.

3. According to the petitioners, the second respondent had registered nearly 57 fraudulent sale deeds between the period from 1995 to 2018 in favour of the various persons and the petitioners found that some persons without any right or title over the property, have dealt with the subject property.

4. When the petitioners enquired about the same, they came to know that it was all based on a bogus patta that was produced as if it was given by the Tahsildar, Nanguneri. According to the petitioners, this bogus patta was cancelled by the Tahsildar, Nanguneri, through proceedings, dated 24.09.2001 and it was further confirmed in appeal by the Revenue Divisional Officer, Cheranmahadevi and necessary changes were also made in the revenue records.

5. The petitioners, thereafter, made an application before the first respondent questioning the fraudulent transactions. The first respondent, through order, dated 12.08.2020, did not entertain the petition on the ground that he cannot cancel the documents and the petitioners will have to necessarily approach the competent Civil Court. The representation made by the petitioners thereafter also did not evoke any response. Aggrieved by the same, the present Writ Petition has been filed before this Court.

6. Heard Mr.S.Srinivasaraghavan, learned counsel appearing for the petitioners and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

7. In the considered view of this Court, the first respondent was expected to conduct an enquiry after affording opportunity to the petitioners and all those persons, in whose names, the sale deeds were executed. If the first respondent on enquiry finds that the transactions in question are fraudulent, an order to that effect will have to be passed and thereafter, it has to be entered in the Index as per the Circular, issued by the Inspector General of Registration, dated 31.07.2018. The first respondent ought not to have straight away rejected the



cancel the documents.

8. It must be kept in mind that whenever a complaint is made to the District Registrar to the effect that some persons have involved in fraudulent transactions, the District Registrar has to enquire on the transactions and if the transactions are found to be fraudulent, a finding to that effect must be made in the order. It is true that the District Registrar will not proceed further and cancel the documents also, since it is beyond the powers of the District Registrar. However, the findings of the District Registrar must be reflected in the Index and this Court had an occasion to deal with the same in detail in W.P.(MD).No.10177 of 2021 and by order dated 17.06.2021, this Court had issued various directions in this regard. It goes without saying that the District Registrar while conducting the enquiry is not supposed to act like a Civil Court and go into the title regarding the property. The District Registrar only has the limited jurisdiction to access whether the transaction in question is fraudulent. In the present case, the petitioners allege that a bogus patta was created and sale deeds were registered on the basis of such a bogus patta. Subsequently, this patta also came to be cancelled and confirmed in the appeal. If such a patta alone was a basis for registration of the documents, obviously, the transactions, which had taken place based on the patta will also be fraudulent. This is the nature of enquiry that is expected to be conducted by the District Registrar. The power has been given to the District Registrar only for this purpose and in such cases, the parties need not be driven to a Civil Court to establish their rights.

9. It is clear from the above that the District Registrar has to necessarily consider the complaint given by the petitioners and deal with the same and find out, if there are fraudulent transactions. The first respondent cannot wash off his hands by saying that he will not pass orders and will relegate the parties to a Civil Court. In view of the above, the matter is remanded back to the file of the first respondent and the first respondent is directed to deal with a complaint given by the petitioners after affording opportunity to the petitioners and all the other interested parties and shall pass orders by ascertaining as to whether the transactions in question were fraudulent transactions. This exercise shall be completed by the first respondent and final orders shall be passed within a period of three months from the date of receipt of a copy of this order. If ultimately, the first respondent finds that the transactions are fraudulent, necessary entries shall be made in the Index, as per the Circular, issued by the Inspector General of Registration on 31.07.2018 and as per directions issued by this Court in W.P.(MD).No.10177 of 2021 dated 17.06.2021.



10. This Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

tsg

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),
O/o.District Registrar Office,
Tirunelveli.

2.The Sub-Registrar,
O/o.Nanguneri Sub-Registrar Office,
Nanguneri,
Tirunelveli District.

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-23096[F] dated 19/07/2021)

+1 CC to M/s.GP (SR-23323[F] dated 20/07/2021)

W.P. (MD) .No.12175 of 2021
19.07.2021

TP (CO)

KB(29.07.2021) 4P 5C