



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 29.07.2021**

**CORAM :**

**THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE**

**AND**

**THE HON'BLE MRS.JUSTICE S.ANANTHI**

**W.A. (MD) No.1489 of 2021**

1. S. Pichai

2. P. Murugeshwari

.. Appellants

Vs.

1. The District Registrar,  
District Registrar Office,  
Butlagundu Road, Periyakulam,  
Theni.

2. The Sub Registrar,  
Sub Registrar Office,  
Cumbum,  
Theni.

3. S. Murugesan

4. M. Jeyakumar

5. K. Jegathesan

6. K.B. Elangkannan

7. R. Ilamparathi

8. A.K.N. Vaijeyanthimala

.. Respondents

Prayer: Appeal filed against the order dated 18.02.2021 passed in W.M.P.No.2421 of 2021 in W.P.(MD) SR.No.7302 of 2021.

**PRAYER in W.M.P(MD)No.2421 of 2021:** Petition filed, under Rule 2B of the Appellate Side Rules to regulate the proceedings under Article 226 of the Constitution of India to permit the petitioners herein to join together and file a single writ petition.



**PRAYER in W.P(MD)SR.No.7302 of 2021:** Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of mandamus, directing the respondents to declare the deeds as null and void in comprising of i) sale deed No.764/2005, ii) Power Deed No.615/IV-2007, iii) Sale Deed No.2936/2008, iv) sale deed No.2937/2008, v) sale agreement No.4345/2007, vi) sale deed No.3515/2010 and vii) power deed No.936/2010-Book IV on the basis of the petitioner's representation dated 07.01.2021 within stipulated time fixed by this Hon'ble Court.

For Appellants : Mr. V. Vishnu

For Respondents : Mr. A.K. Manikkam  
Standing Counsel for Governement  
For R1 and R2

JUDGMENT

(Judgment of the Court was made by  
***The Hon'ble Chief Justice***)

This is another frivolous appeal filed, possibly, to avoid the liability to a secured creditor or a bank.

2. The appellants complain that their formal application to jointly file a single petition was taken up by the Writ Court and the petition dealt with on merits at such stage without allowing the matter to progress any further.

3. The reasons for adopting the procedure complained of is apparent from the order impugned dated February 18, 2021. It is a matter of concern that the filter that was traditionally maintained at the Bar may no longer be in place so that audacious and utterly frivolous claims reach the Court without any degree of care or caution being exercised at the Bar to weed out the completely unworthy matters.

4. The impugned order records that the case of the appellants herein was that they had obtained an agricultural loan from the State Bank of India, ADM Kumbam Branch, by mortgaging their agricultural properties. The appellants referred to a notice received from the Debts Recovery Tribunal, Madurai for recovery of an amount in excess of Rs.19 Lakh with interest. According to the appellants, a one-time settlement offer had been made by the bank and the appellants had paid in accordance therewith and the loan stood discharged. The appellants complained of some documents being fraudulently registered and the prayer before the Writ Court was to declare certain deeds as null and void.

5. Apart from the Writ Court finding the averments in the



affidavit to be "completely jumbled up and disjointed" and the matter being beyond comprehension in how it had been presented, the Court noticed that a bald case of fraud had been made out to challenge the ownership of properties by others.

6. It is a matter of concern that the noble profession that it was once called may now have been reduced by some practitioners to a mere trade or even worse. Oftentimes, instead of appropriate advice being given to a client, devices are chalked out to aid the client that may even border on abetting. These are areas of concern that need to be addressed by the disciplining authority, provided such authority was disciplined itself.

7. It is elementary that when a deed is challenged, whether on the ground of forgery or fabrication or fraud, particulars of the forgery or fraud need to be pleaded; and, in sufficient clarity. Secondly, the challenge to a deed, as in the present case, amounts to the challenge to the title of the holder of an immovable property. It is elementary that questions of title are not gone into in the writ jurisdiction, which is primarily a remedy available in the public law field. In any event, issues as to fraud and forgery cannot be decided on affidavit evidence in summary proceedings and writ petitions are, generally, decided in such manner and without recording any evidence.

8. More importantly, a challenge of such kind has to be carried to a civil court upon payment of due court fees for the reliefs claimed. The writ petition was nothing more than a kite-flying exercise to put another person's title in cloud to obtain an undue advantage.

9. For the reasons aforesaid, W.A.(MD) No.1489 of 2021 is dismissed. The appellants will pay costs assessed at Rs.20,000/- (Rupees Twenty Thousand only) to the respondents in equal measure, and the respondents will be entitled to initiate appropriate proceedings to obtain Rs.2,500/- (Rupees Two Thousand Five Hundred only) each from the appellants together with interest at the rate of ten percent per annum if the costs are not tendered within three months from date.

10. It may also be time for advocate for the appellants to introspect.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr



To:

1. The District Registrar,  
District Registrar Office,  
Butlagundu Road, Periyakulam,  
Theni.

2. The Sub Registrar,  
Sub Registrar Office,  
Cumbum,  
Theni.

+1 CC to M/s.GP ( SR-24934[F] dated 02/08/2021 )

W.A.(MD) No.1489 of 2021  
29.07.2021

MGJ(06.08.2021) 4P 4C