



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.08.2021**

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD).No.13246 of 2021

S.Muruganesan

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road
Chennai - 600 028.

2.The District Registrar
O/o.The District Registrar,
Rajagambiram,
Y.Othakadai, Madurai.

3.The Sub-Registrar
Theppakulam Sub-Registrar Office,
Rajagambiram,
Y.Othakadai, Madurai.

4.Pitchai

5.M.Indira

6.Chithra

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to calling for the entire records in connection with the impugned order passed by the third respondent vide the proceedings Ref. No.A.Thi.Mu.No.XXX/2021 dated 14.07.2021 and quash the same and consequently direct the respondents 1 to 3 to conduct a detailed enquiry as to the fraudulent documents executed by respondents 4 to 6 vide Document No.2185/2006 and Document No.461/2007 dated 10.08.2006 and 15.02.2007, respectively and make appropriate entries in the registering book and as well as in the encumbrance certificate.

For Petitioner

: Mr.Niranjana S.Kumar

For R-1 to R-3

: Mr.R.Baskaran

Standing Counsel for Government

ORDER

The petitioner challenges an order dated 14.07.2021 of the third respondent herein and seeks a consequential direction to respondents 1 to 3 to conduct a detailed inquiry with regard to certain allegedly fraudulent documents executed by respondents 4 to 6.

2. The petitioner asserts that he purchased Plot No.31, which is part of a five acre property situated in R.S.No.2/1A at

<https://hcservices.ecourts.gov.in/hcservices/>



Karuppapillaiyenthal Village, Madurai District. According to the petitioner, Plot No.31 was purchased by one Mr.Rengasami Naidu on 29.12.1972. The said Rengasami Naidu executed a sale deed in favour of the petitioner's vendor, namely, Mrs.Ambujam, vide Document No.947 / 1984. The said Ambujam, in turn, executed a registered sale deed in favour of the petitioner vide Document No.2089 / 2012. The petitioner traces his title to the property on the above basis.

3. The petitioner states that one Mr.R.Pitchai, who claims to be the legal heir of Mr.Rengasami Naidu, had fraudulently executed a sale deed dated 10.08.2006 in favour of the fifth respondent herein vide Document No.2185 / 2006. It is further stated that the fifth respondent executed a registered sale deed bearing Document No.461 / 2007 on 15.02.2007 in favour of the sixth respondent.

4. Upon discovering the aforesaid fraudulent transactions from the Encumbrance Certificate, the petitioner carried a representation dated 14.12.2009 to respondents 1 to 3 herein and requested them to conduct an inquiry under Sections 67, 68 and 83 of the Registration Act, 1908. Eventually, this resulted in passing of the impugned order dated 14.07.2021.

5. Learned counsel for the petitioner invited my attention first to the representation of the petitioner and thereafter to the impugned order. By referring to the representation, learned counsel pointed out that the object and purpose of the representation is clear from the operative paragraph thereof, whereby the petitioner had requested the authority to conduct an inquiry as regards the fraudulent registration of Document No.2185 / 2006 and Document No.461 / 2007. In these circumstances, learned counsel pointed out that the impugned order of 14.07.2021 *ex facie* discloses non-application of mind in as much as the authority completely misconstrued the nature of the representation and misinterpreted the same as being in the nature of an objection with regard to future registration of conveyances in respect of the property in question.

6. In support of these contentions, learned counsel referred to and relied upon judgments reported in **2021 (1) CTC 839 (J.Jayaniithaa Vs. Inspector General of Registration and others)** and **2021 (5) MLJ 220 (S.R.M.Packirirajan Vs.Inspector General of Registration)**. According to learned counsel, the aforesaid judgments lay down that the registration authority has jurisdiction to conduct an inquiry as to whether there was fraud or impersonation or forgery in relation to the registration of a document. He further submitted that if fraud or the like is established at such inquiry, the registration authority has the power to indicate the same both in the records maintained for such purpose and in the



7. On the other hand, Mr.R.Baskaran, learned counsel for the State, who appears on behalf of the respondents 1 to 3, submits that an appellate remedy is provided under Section 72 of the Registration Act. Therefore, he submits that this Court should decline to exercise jurisdiction. In addition, he submits that the present case involves disputed questions of fact and, therefore, this Court should decline to exercise jurisdiction under Article 226 of the Constitution since the Court is not exercising appellate power.

8. Upon examining the representation dated 08.07.2021 of the petitioner and the impugned order dated 14.07.2021, it is evident that the petitioner requested for an inquiry into the allegedly fraudulent registration of Document No.2185 / 2006 and Document No.461 / 2007. In response, the registration authority has clearly misconstrued the nature of the representation and erroneously concluded that the petitioner was seeking to prevent further registrations in respect of the said property. To that extent, the petitioner's contentions are liable to be accepted.

9. However, the settled legal position is that the registration authority does not have jurisdiction to decide questions of title. The Hon'ble Supreme Court pronounced authoritatively on this issue in **Sathya Pal Anand Vs. State of Madhya Pradesh, (2016) 10 SCC 767**. Likewise, a Full Bench of this Court in **M/s. Latif Estate Line India Limited Vs. Hadeeja Ammal, 2011 2 CTC 1**, concluded that the registration authority does not have the jurisdiction to unilaterally cancel a sale deed and that such cancellation should either be by mutual consent or based upon orders of a jurisdictional civil court.

10. In the light of the aforesaid legal position, the registration authorities cannot decide questions of title in the course of inquiry and should relegate the parties to an appropriate civil court for such purpose. Nevertheless, the registration authorities are empowered to decide whether the registration of a document was fraudulent, including whether impersonation or forgery were involved in such regard, and the registration authority may conduct an inquiry for the aforesaid purposes.

11. In view of the aforesaid discussion, the impugned order dated 14.07.2021 cannot be sustained and is hereby quashed. Consequently, the second respondent is directed to reconsider the petitioner's representation dated 08.07.2021 and keeping in mind the observations set out above, conduct and conclude an inquiry as requested for by the petitioner. Such inquiry shall be conducted after providing a reasonable opportunity both to the petitioner and to respondents 4 to 6 herein. In view of the fact that the merits of the matter have not been examined in this writ petition and



respondents, the writ petition is being disposed of without notice to the private respondents. The second respondent is directed to conclude the inquiry within a period of three (3) months from the date of receipt of a copy of this order.

WEB COPY 12. W.P.(MD).No.13246 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True 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 Inspector General of Registration,
No.100, Santhome High Road
Chennai - 600 028.

2.The District Registrar
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3.The Sub-Registrar
Theppakulam Sub-Registrar Office,
Rajagambiram,
Y.Othakadai,
Madurai.

+1 CC to M/s.SPL GP (SR-25072[F] dated 03/08/2021)

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-25128[F] dated 03/08/2021)

W.P.(MD).No.13246 of 2021
02.08.2021

CM(CO)
KB(13.08.2021) 4P 6C