



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P. (MD) No.14466 of 2020
and
W.M.P. (MD) No.12105 of 2020

K.Gopalakrishnan

.. Petitioner

Vs

1.The District Registrar,
District Registrar Office,
Palayamkottai,
Tirunelveli District.

2.Sub Registrar,
Sub Registrar Office,
Kovilpatti,
Tuticorin District.

3.Sub Registrar,
Sub Registrar Office,
Ettayapuram,
Tuticorin District.

4.P.Chidambaram

5.S.Ulaganathan

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent to conclude the enquiry initiated by him against 4th and 5th respondents in Na.Ka.No.91/2019 and to pass final order on the basis of representation dated 05.09.2020 given by the petitioner within stipulated time.

For Petitioner : Mr.B.Rajesh Saravanan

For R1 to R3 : Mr.K.Sathiya Singh
Additional Government Pleader

For R4 & R5 : Mr.A.Mohan



ORDER

The facts in brief are stated hereunder:-

2. One Rajeshwari, W/o. Gurusamy, has purchased the property in S.Nos. 529/2A, 529/2B2 and 534/2A of Iuppaiyurani Village, Kovilpatti Taluk, Tuticorin District on 10.01.1975. The said Rajeshwari had appointed one Poovalingam, S/o. Gurusamy, as her power of attorney on 04.12.2008, vide registered Doc.No.82/1975, which was registered at Kovilpatti Sub Registrar Office. The petitioner herein had purchased plot No.16, measuring an extent of 3.944 cents in the above survey numbers for a valuable consideration, by way of registered sale deed bearing registration number 9193/2012 on the file of the Kovilpatti Sub Registrar Office, from the said Rajeshwari through her power agent on 04.09.2012.

3. It appears that the respondents 5 and 6 herein had created a fake patta in respect of the properties in S.Nos. 529/2A, 529/2B2 and 534/2A, which were originally belonged to the said Rajeshwari as mentioned above and on the basis of the fake records, the 4th respondent had registered the deed of power of attorney in favour of the 5th respondent on 12.09.2018 on the file of the 3rd respondent. When the petitioner had come to know about the fake transaction and also the fraudulent patta issued in the name of the 4th respondent, he has approached the 3rd respondent to take action against the fraudulent transaction.

4. In response to the complaint of the petitioner, the 3rd respondent appears to have issued notice on 17.05.2019, calling upon the respondents 4 and 5 to show cause as to why the document, namely, the deed of power of attorney, should not be cancelled. Though the enquiry process has been initiated towards fraudulent registration at the instance of the respondents 4 and 5, the 3rd respondent has not completed the enquiry and in the meanwhile, the petitioner apprehends that on the basis of the fraudulent registration of document, the property could be further encumbered. Therefore, the petitioner is before this Court for issuance of writ of mandamus.

5. The matter was heard and the learned counsel for the petitioner would reiterate the above facts.

6. Mr. K. Sathiya Singh, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that necessary direction has already been issued to complete the enquiry in W.P. (MD) No.4299 of 2021, which was filed by the 5th respondent herein, challenging the notice issued by the 3rd respondent, dated



7.It appears that when this Court expressed its intention to dismiss the earlier writ petition with exemplary cost as it is not maintainable to the 5th respondent herein to challenge the show cause notice and stop the legitimate proceedings initiated against him by the official concerned, the learned counsel appearing for the petitioner sought permission of this Court to withdraw the writ petition and in consideration of the pleadings of the learned counsel, permission was granted by this Court to withdraw the writ petition and the said writ petition was dismissed as withdrawn on 02.03.2021.

8.Be that as it may, the fact of the matter is that the fraudulent transaction is being enquired into by the 3rd respondent and any further delay would be against public interest as on the basis of the alleged fraudulent transactions, the subject property may continue to be encumbered illegally at the instance of the private respondents in furtherance of their nefarious designs. Therefore, it is imperative that the 3rd respondent should conclude the enquiry as expeditiously as possible.

9.In the above circumstances, this Court in the fitness of things is of the view that the 3rd respondent ought to be directed to conclude the enquiry and submit a report within a reasonable time. Therefore, this Court is inclined to pass the following directions:-

i) The 3rd respondent is directed to complete the enquiry based on the notice dated 17.05.2019 and pass orders within a period of 8 weeks from the date of receipt of a copy of this order.

ii) The 3rd respondent shall conclude the enquiry within the time stipulated by this Court, as any further delay would result in facilitating malicious machination of some undesirable elements, in the process.

10.The writ petition is disposed of as above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

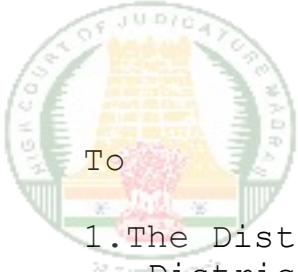
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/ /2021

Sub Assistant Registrar(CS)

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



To

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+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-8330[F] dated
03/03/2021)

+1 CC to M/s.SPL GP (SR-8458[F] dated 03/03/2021)

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VR(CO)
TR(28.04.2021) 4P 6C