



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.16772 of 2021

and

W.M.P(MD).Nos.13645 and 13647 of 2021

WEB COPY

S.Santhi

... Petitioner

Vs.

1.The District Registrar (Administration)
Office of District Registrar,
Tenkasi District.

2.The Sub Registrar,
Office of Sub Registrar,
Sengottai, Tenkasi District.

3.D.Gladston Robin

4.Nirmala Kumari

5.Luludevajemla

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent's impugned proceedings in No.4839/Aa2/2020, dated 31.12.2020 and quash the same as devoid of merits and consequently, directing the second respondent to accept the documents whatever presented by the petitioner for the registration in respect of her properties in New Survey No.1070/7A3 an extent of 1 Acre 02 ½ Cents 1070/2,3,4,5,6 1070/1A2, 1070/7A3 an extent of 25.16 cents, 1070/7A2 an extent of 10.00, 1070/7A3, 1070/2,3,4,5,6 an extent of 1 Acre 02 ½ Cents, 1070/1A2 an extent of 6.03 1/2, 1070/7A2 an extent of 2.45 in Adavi Nainaar Kovil Forest, Sengottai Melur Village, Sengottai Taluk, Sengottai, Tenkasi District(Tirunelveli District) in accordance with the Registration Act and Rules, within the period stipulated by this Court.

For Petitioner

: Mr.A.Haja Mohideen

For R1 and R2

: Mr.P.Subbaraj

Counsel for State

ORDER

The petitioner challenges an order dated 31.12.2020 of the first respondent.

2.The petitioner states that she is the owner of specific

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extorts of properties bearing old Survey Nos.564/2, 560/1, 561/1, 562/1 and 562/2 at Poolankudiiruppu, Thonipparai Forest in Senkottai Taluk, old Kollam District, Kerala State, Tirunelveli District, currently in Tenkasi District. The petitioner asserts that such properties were purchased under multiple sale deeds from the predecessors-in-title. Pursuant thereto, it is stated that pattas were also issued in favour of the petitioner. On the basis of the above mentioned title and revenue documents, the petitioner asserts that she was in possession and enjoyment of the property for more than ten years. In these circumstances, it is stated that the impugned order was issued pursuant to proceedings initiated by the third respondent herein. The impugned order is challenged primarily on the ground that the District Registrar does not have the authority to cancel a registered document.

3.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the first and second respondents. He submits that the petitioner has an appellate remedy in terms of the impugned order.

4.The petitioner challenges an order dated 31.12.2020 by which it was concluded that the registration of Document Nos.766/2011, 767/2011 and 770/2011 were fraudulent. The said impugned order records that the petitioner is entitled to appeal against the said order before the Deputy Inspector General of Registration within a period of sixty days from the date of receipt of the relevant order.

5.While concluding that the above mentioned three documents were registered fraudulently, the District Registrar has examined disputed questions of fact and recorded findings in relation thereto. In judicial review, it is not convenient or appropriate to consider a challenge to such order on the basis of affidavit evidence. As indicated above, the said order is appellable. The only grounds cited by the petitioner for approaching this Court is that the District Registrar does not have the authority to decide questions of title or to cancel a registered document. Upon perusal of the impugned order, it is evident that the District Registrar has taken note of the fact that he does not have the authority to cancel a registered document. After taking note of the said aspect, the District Registrar has recorded that it is open to the petitioner therein to approach a jurisdictional civil court for cancellation of the documents. Therefore, it cannot be said that the order of the District Registrar is *ex facie* without jurisdiction.

6.Therefore, the petitioner should avail of either the appellate remedy as indicated in the impugned order or initiate proceedings before a jurisdictional civil court. The one impediment for the petitioner is that the limitation period of sixty days has expired. In this connection, the petitioner cites the Covid-19 pandemic and states that she was unable to take recourse to the statutory remedy within time for such reason.



7.In the aforesaid facts and circumstances, the petitioner is permitted to file an appeal before the Deputy Inspector General of Registration within a period of fifteen days from the date of receipt of a copy of this order. If such appeal is filed within the above mentioned time limit, the Deputy Inspector General of Registration is directed to receive such appeal without going into the aspect of limitation and dispose of the same on merits and in accordance with law after providing a reasonable opportunity to the petitioner and the private respondents herein. Such appeal shall be disposed of within a period of three (3) months from the date of receipt thereof.

8.W.P.(MD).No.16772 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD)Nos.13645 and 13647 of 2021 are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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 Deputy Inspector General of Registration,
Chennai.
- 2.The District Registrar (Administration)
Office of District Registrar, Tenkasi District.
- 3.The Sub Registrar,
Office of Sub Registrar,
Sengottai, Tenkasi Distric.

+1 CC to M/s.SPL.GP (SR-29865,SR-29772[F] dated 22/09/2021)

W.P(MD).No.16772 of 2021
20.09.2021

RD(28.09.2021) 3P 5C