



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 30.03.2021

DATE ON WHICH PRONOUNCED: 30.04.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P. (MD)No.20634 of 2017

and

WMP(MD)No.16900 of 2017

P.Parithakani

... Petitioner

Vs.

1. The Commissioner of Police,
Algarkovil Road,
Madurai City,
Madurai.

2.The Inspector of Police,
E3 Anna Nagar Police Station (Crime)
Madurai - 625 020.

3.I.Pitchaikani

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a **Writ of Certiorari**, calling for the records pertaining to the impugned order passed by the second Respondent dated 06.05.2016 and quash the same on the ground that the same is arbitrary, illegal and without jurisdiction.

For Petitioner : Mr.I.Pinaygash

For R1 & R2 : Mr.M.Ganesan

Government Advocate (Crl.Side)

For R3 : Mr.S.M.A.Sinnah

O R D E R

This Writ Petition has been filed to quash the impugned order passed by the second Respondent, dated 06.05.2016.

2. The brief facts are as follows:-

The petitioner and the third respondent are the husband and wife. Their marriage took place before 35 years ago and they had three daughters and a son. The petitioner was entitled to a share in her ancestral property at Pasumpon Village. She was given cash in lieu of her share in the property. From that amount, she purchased a



property situated in Survey Nos.7/4B, 44/2, 42/2B, 261/2, 348/10. Situated in Vantiyur Village, Yagappa Nagar, Sakkimangalam Village and Ramnadu Pattinakathan respectively. After that misunderstanding arose between them and the third respondent abandoned the family and indulged in selling the property by taking advantage of the fact that the sale deed standing in his name. The petitioner kept the original document in the Locker of Lakshmi Vilas Bank, Annanagar, Madurai. The third respondent alleged to have given a false complaint on 25.03.2016 stating that the original document went missing. On that ground, a missing document certificate was also issued by the respondent police. On that basis, he sold the property. The first respondent without proper verification of records and investigation has issued a missing certificate. The petitioner has also filed a suit in O.S.No.46 of 2016, on the file of the Family Court, Madurai, for maintenance and for other reliefs. So, this petition is filed seeking the aforesaid relief.

3. The short point, that arises for consideration is that whether the missing certificate issued by the second respondent herein is liable to be quashed.

4. According to the learned counsel for the petitioner, because of the matrimonial dispute between herself and the third respondent, suppressing the fact that the original document is in the custody of the petitioner, the third respondent, approached the Police, to obtain the missing certificate. Out of the share received by the petitioner, by way of cash in the family partition that took place between herself and her family members, the property was purchased in the name of the third respondent, taking advantage of that, he wanted to sell the property. So, he obtained missing certificate by suppressing the true fact. So, it is seen that the matrimonial dispute is pending between the petitioner and the third respondent herein.

5. According to the petitioner, the original document was kept in Lakshmi Vilas Bank, Anna Nagar Branch, Madurai, in Locker No.12 and the petitioner says that the original document is available with her in the bank locker.

6. It is appears that the third respondent by giving false complaint before the second respondent, obtained a missing certificate. Even though, writ of certiorarified mandamus will not lie, a direction may be given to the second respondent herein, to pass appropriate orders cancelling the missing certificate dated 06.05.2016, granted in favour of the third respondent.

7. A proper representation must be given by the petitioner within 15 days from the date of receipt of copy of this order by enclosing this order copy to the second respondent herein. On receipt of the representation, the second respondent, shall cancel the Missing Certificate issued in CSR.No.340 of 2017.



8. In respect of dispute, whether the property belongs to the petitioner or the third respondent, it can be worked out only in O.S.No.46 of 2016, pending on the file of the Family Court, Madurai.

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9. So, with the above direction, this writ petition is dispose of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss
To

1. The Commissioner of Police,
Algarkovil Road,
Madurai City,
Madurai.

2.The Inspector of Police,
E3 Anna Nagar Police Station (Crime)
Madurai - 625 020.

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30.04.2021

RK(13.05.2021) 3P 3C