



W.P.Nos. 16406 & 16407 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.07.2022

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.Nos.16406 & 16407 of 2011

and

M.P. Nos.1 & 1 of 2011

W.P. No. 16406 of 2011

1. K.R. Thulasi Raman
2. K.R. Siva Raman
3. K.R. Chella Raman

... Petitioners

VS

1. The Inspector General of Registration
Mylapore, Chennai 600 004.
2. The District Registrar,
North Chennai Registrar Office,
Chennai 600 001.
3. The Chief Manager,
United Commercial Bank,
Chennai Main Branch,
No.328, Thambu Chetty Street,
Chennai 600 001.
4. Rasul Beevi
5. S. Azarruddin
6. Fasil alias Ahamed Fasil
7. S. Jailani Beevi

...Respondents



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W.P. No. 16407 of 2011

1. K.R. Thulasi Raman
2. K.R. Siva Raman
3. K.R. Chella Raman

... Petitioners

VS

1. The Inspector General of Registration
Mylapore, Chennai 600 004.
2. The District Registrar,
North Chennai Registrar Office,
Chennai 600 001.

...Respondents

Prayer in W.P. No.16406 of 2011: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other writ or appropriate order or direction directing the 1st and 2nd respondents to cancel the Deed of Mortgage deposit of title deed dated 09.04.2010 and registered as document No.158/2010 in favour of the 3rd respondent herein and the sale deed dated 09.03.2011 and registered as document No.85/2011 at the District Registrar 2nd respondent office in favour of the respondents 4 to 7 herein forging the name of the petitioner herein, both the documents executed by fraudulent persons by creating forged documents, which are illegal and void in respect of petitioners house property bearing old No.161, New No.346, Thambu Chetty Street, Chennai 600 001 and comprised in Survey No.11605/B now V.O.C. Nagar R.S. No.11605/2 measuring an extent of 1 ground 996 sq.ft.

Prayer in W.P. No.16406 of 2011: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other writ or appropriate order or direction directing the 1st and 2nd respondent or their men or agents or servants not to register any sale deed or deed creating encumbrances upon the petitioners house property bearing old No.161, New No.346, Thambu Chetty Street, Chennai 600 001 and comprised in Survey No.11605/B now V.O.C. Nagar R.S. No.11605/2, measuring an extent of 1 ground 996 sq. ft.



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For Petitioners : Mr. G. Nagarajan (In both Writ Petitions)

For R1 & R2 : Mr. R. Kumaravel
Additional Government Pleader (In both Writ
Petitions)

For R4, R5, R7 : Mr. G. Murali (In W.P. No.16406 of 2011)

COMMON ORDER

The issue involved in both the Writ Petitions are common and hence they are taken up, heard and disposed of through this common order.

2. The brief facts of the case are that, the subject property is owned by the petitioners and each has 1/3 share in the said property. This property was purchased by the father of the petitioners through a registered sale deed dated 27.10.1958. Thereafter, the father of the petitioners and the petitioners 2 and 3 entered into a partition and the partition deed was also registered on 19.07.1969 whereby the petitioners 2 and 3 were given 1/4 undivided share each and the remaining 1/2 share was retained by the father of the petitioners. Thereafter, he executed a Will and bequeathed his 1/2



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undivided share in favour of the 1st petitioner. The father of the petitioners died on 20.03.1975. The 1st petitioner filed a petition before this Court in O.P. No.48 of 1983 for grant of Probate of the Will dated 01.03.1972 and the said petition was ordered by this Court on 18.03.1983. Thus, the petitioners are claiming to be the absolute owners of the subject property.

3. It is stated that the petitioners are residing in their native village and hence they have left the property under a care taker. At this point of time, the petitioners came to know that certain persons are attempting to create an encumbrance over the subject property. On further enquiry, they found that the subject property was mortgaged by rank third parties and they were attempting to raise a loan with UCO Bank by giving the subject property as a security.

4. The petitioners immediately on coming to know of the same, collected the details and gave a complaint to the UCO bank. The Bank coming to know of the fraud played by the third parties, gave a complaint and the investigation was taken up by the CBI. In the course of



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investigation, the accused persons were arrested and it is during this point of time, the petitioners also ascertained the fact that the accused persons had also executed a sale deed dated 09.03.2011 for the very same subject property in favour of the respondents 4 to 7.

5. It is under these circumstances, W.P. No.16406 of 2011 has been filed for a direction to the respondents 1 and 2 not to release the sale deed dated 09.03.2011 which is said to have been referred under Section 47A of Indian Stamp Act for under valuation. W.P. No.16407 of 2011 has been filed for a direction to the registering authorities not to register any document pertaining to the subject property.

6. Heard Mr. G. Nagarajan, learned counsel appearing on behalf of the petitioner and Mr. R. Kumaravel, learned Additional Government Pleader appearing on behalf of the respondents.

7. The learned counsel appearing on behalf of the petitioners submitted that the investigation conducted by the CBI ultimately ended in



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conviction and sentence of the accused persons and they were imprisoned.

The learned counsel for the petitioners submitted that the relief sought for in these Writ Petitions can be considered in the light of this subsequent development and requested for safeguarding their right and interest in the subject property.

8. The learned Government Advocate appearing on behalf of the respondents 1 and 2 submitted that the Registering authority cannot refuse to register the documents once the same is presented and if any restraint order is passed by this court, the same will be complied with.

9. In the considered view of this Court, this is the case involving rank forgery of documents by persons who have absolutely no right or title over the subject property. It is quite unfortunate that those persons managed to secure a loan from UCO Bank by giving the subject property as a security and also at the same time, sold the property to the private respondents and thereby the accused persons had unjustly enriched themselves from a property, which does not belong to them. This finding is further



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substantiated by the fact that the accused persons were convicted in the crime that was investigated by CBI. Thus, the forgery and cheating committed by the accused persons stands confirmed by the judgment of the competent Criminal Court.

10. In view of the peculiar facts of the present case, this Court is inclined to issue appropriate directions to the respondents 1 and 2. The 1st and 2nd respondents are directed not to register any documents pertaining to the subject property unless and otherwise those documents are presented by the petitioners or their agents/legal representatives. The status of the sale deed dated 09.03.2011 is not known. Since it became the subject matter of the investigation by CBI, it is not clear whether this document was also marked as one of the exhibits in the Criminal case. If, in case, this document has not been seized in the Criminal case and the same is available, this document shall not be released to any person.



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11. In the result, both the Writ Petitions are allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

12.07.2022

Internet : Yes / No

Index: Yes / No

Speaking order / Non speaking order

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To

1. The Inspector General of Registration
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3. The Chief Manager,
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N. ANAND VENKATESH, J.

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