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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.14913 OF 2015

AND

W.M.P.NO.3223 OF 2017 AND M.P.NOS.1 TO 4 OF 2015

1.G.Sabari Manikandan

2.A.Shanmugavalli

... Petitioners

Vs.

1. S.Rathinavelu

2. Illamathi Rathinavelu

3. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.

4. The District Registrar (Administration),
Department of Registration,
Jennis Road,
Saidapet,
Chennai - 15.

5. The Sub Registrar,
Adyar,
Chennai - 600 020.

6. The Deputy Commissioner of Police,
Central Crime Branch (Land Grabbing),
O/o.Commissioner of Police,
Vepery,
Chennai - 600 007.

7. The Inspector of Police,
Adyar Police Station,
Adyar,
Chennai - 600 020.

8. The Commissioner of Police,
Vepery,
Chennai - 600 007.

... Respondents



Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in respect of the proceedings No.3966/A3/2014 dated 09.03.2015 on the file of the fourth respondent herein and quash the same and consequently direct the fourth respondent to annul the registration of the forged Settlement Deed Doc. No.473/2013 dated 22.02.2013 on the file of the fifth respondent/SRO, Adyar, Chennai and direct the eighth respondent to initiate Criminal complaint against the first and second respondent on the basis of the complaint dated 03.12.2012, 05.04.2013 and 29.04.2013 and restore the possession of the property to the petitioners.

For Petitioner : Mr.G.Munirathnam

For Respondents : Mr.Yogesh Kannadasan for R3 to R7
Special Government Pleader
M/s.J.R.K.Bhavanantham for R1
M/s.P.B.Ramanujam for R2

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records in respect of the proceedings No.3966/A3/2014 dated 09.03.2015 on the file of the fourth respondent and quash the same and to consequently direct the fourth respondent to annul the registration of the forged Settlement Deed Doc. No.473/2013 dated 22.02.2013 on the file of the fifth respondent/SRO, Adyar, Chennai and to direct the eighth respondent to initiate criminal complaint against the respondents 1 and 2 on the basis of the complaint dated 03.12.2012, 05.04.2013 and 29.04.2013 and to restore the possession of the property to the petitioners.

2.The case of the petitioners is that their father had purchased a house plot in Plot No.495/W, Old No.21, New No.37, 4th Cross Street, Indira Nagar, Adyar, Chennai - 20 of an extent of 1 ground and 600 sq.ft., comprised in T.S.No.46 parts, block No.13 of Kalikundram Village, Mylapore - Triplicane Taluk, Chennai by way of an allotment order dated 01.08.1970 by the TNHB on the basis of his application dated 30.01.1970. Thereafter, the petitioners father mortgaged the property on 01.11.1973 in favour of the Governor of Tamil Nadu for a sum of Rs.18,400/- for the construction of a dwelling house and repaid the entire loan amount and became the absolute owner of the property.

3.The further case of the petitioners is that their father



executed a settlement deed vide Document No.1859/2012 dated 10.09.2012 on the file of SRO, Adyar, Chennai, in favour of the petitioners. During his lifetime, the petitioners father allowed his father - in - law one K.Shanmugam to reside in the subject property, however, the said K.Shanmugam without any title or authority executed forged Will in favour of his son/ first respondent herein at the instigation of respondents 1 and 2 and on the basis of the forged Will, the first respondent obtained Letter of Administration dated 06.01.2003 in O.P.No.559 of 2001 without impleading the petitioners and thereafter registered a forged settlement deed vide Document No.473 of 2013 dated 22.02.2013 on the file of SRO, Adyar, Chennai.

4.The further case of the petitioners is that on coming to know about the fraudulent act of the respondents 1 and 2, the petitioners made complaint before the respondents 3 and 4 and since there was no response, filed W.P.No.12431 of 2014 before this Court. Pursuant to the order of this Court dated 23.02.2015 made in the said writ petition, the impugned order came to be passed. Hence, this writ petition.

5.The learned counsel appearing for the petitioners submitted that the subject property is the self acquired property of the father of the petitioner and he executed settlement deed in favour of the petitioners. The said K.Shanmugam is the father - in - law of the petitioners father and on his request the petitioners father allowed him to reside in the subject property, however, he executed forged Will in favour of his son/ first respondent at the instigation of respondents 1 and 2 and on the basis of the forged Will, the first respondent obtained Letter of Administration dated 06.01.2003 in O.P.No.559 of 2001 without impleading the petitioners.

6.The learned counsel appearing for the petitioners further submitted that on coming to know about the Letter of Administration obtained by the first respondent, the petitioners filed A.No.3230 of 2015 before this Court for revocation of Letter of Administration, however, the said application was dismissed on 30.11.2020. Challenging the same, the petitioners have preferred O.S.A.No.253 of 2021 before the Hon'ble Division Bench of this Court and the same is pending. The learned counsel further submitted that the said proceedings have nothing to do with the settlement deed executed by the petitioners father in their father. The fourth respondent has the power to annul the forged settlement deed and without doing so, has passed the impugned order which is non est in law.

7.The learned counsel appearing for the petitioners further submitted that Letter of Administration gives only authorisation



to the Will and does not declare title over the property. In the absence of declaration of title over the property, the impugned order passed by the fourth respondent rejecting the petitioners request is not sustainable one.

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8.The learned counsel appearing for the respondents 1 and 2 jointly submitted that the dispute involved is purely civil dispute inbetween the petitioners and respondents 1 and 2 and further submitted that the Will executed by the first respondent's father was authorised by this Court by way of Letter of Administration dated 06.01.2003 in O.P.No.559 of 2001 and the application filed by the petitioners for revocation of Letter of Administration was dismissed by this Court. Hence, the impugned order warrants no interference.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.Admittedly, there is civil dispute inbetween the petitioners and respondents 1 and 2. The petitioners claim that their father purchased the subject property by way of an allotment order dated 01.08.1970 by the TNHB on the basis of his application dated 30.01.1970. Thereafter, the petitioners father mortgaged the property on 01.11.1973 in favour of the Governor of Tamil Nadu for a sum of Rs.18,400/- for the construction of a dwelling house and repaid the entire loan amount and became the absolute owner of the property.

11.The petitioners further claim that their father executed a settlement deed vide Document No.1859/2012 dated 10.09.2012 on the file of SRO, Adyar, Chennai, in favour of the petitioners. During his lifetime, the petitioners father allowed his father - in - law one K.Shanmugam to reside in the subject property, however, the said K.Shanmugam without any title or authority executed forged Will in favour of his son/ first respondent at the instigation of respondents 1 and 2 and on the basis of the forged Will, the first respondent obtained Letter of Administration dated 06.01.2003 in O.P.No.559 of 2001 without impleading the petitioners.

12.The petitioners further claim that on coming to know about the Letter of Administration obtained by the first respondent, the petitioners filed A.No.3230 of 2015 before this Court for revocation of Letter of Administration, however, the said application was dismissed on 30.11.2020. Challenging the same, the petitioners have preferred O.S.A.No.253 of 2021 before the Hon'ble Division Bench of this Court and the same is pending.

13.In view of all the above facts, this Court is not inclined to interfere with the impugned order passed by the



fourth respondent. This Court is also not inclined to render any opinion on the merits of the case since rendering any opinion on the merits of the case will adversely affect the interest of the petitioners and the respondents 1 and 2. This Court grants liberty to the petitioners to canvass all the points before the Hon'ble Division Bench of this Court in O.S.A.No.253 of 2021.

14.The writ petition is dismissed with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Administration),
Department of Registration,
Jennis Road,
Saidapet,
Chennai - 15.
3. The Sub Registrar,
Adyar,
Chennai - 600 020.
4. The Deputy Commissioner of Police,
Central Crime Branch (Land Grabbing),
O/o.Commissioner of Police,
Vepery,
Chennai - 600 007.
5. The Inspector of Police,
Adyar Police Station,
Adyar,
Chennai - 600 020.



6. The Commissioner of Police,
Vepery,
Chennai - 600 007.

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+2ccs to Mr.G.Munirathnam, Advocate, S.R.No.35660

+3ccs to M/s.J.R.K.Bhavanantham, Advocate, S.R.No.36399, 35568

+1cc to the Government Pleader, S.R.No.36595

W.P.No.14913 of 2015

And

W.M.P.No.3223 of 2017 and

M.P.Nos.1 to 4 of 2015

SSD(CO)

PM/07/07/2022