



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.191 of 2022
and
C.M.P.No.1351 of 2022

Archana Reddy

..Appellant

Vs

1. S.Sangeetha
2. Deputy Inspector General,
South Zone, Department of Registration,
Chennai.
3. District Registrar (Admin),
Chennai.
4. Sub Registrar - Tambaram,
Sub Registrar Office,
Tambaram.

..Respondents

Appeal preferred under Clause 15 of Letters Patent against the order dated 12.01.2022 made in W.P.No.19204 of 2021.

Prayer in W.P.No.19204 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus, Calling for the records with regard to the 1st respondent order in No.430/A1/2021 dt. 04.08.2021 and quash the same as illegal and invalid and consequently direct the 3rd respondent not to initiate any proceedings under sec.83 of the Registration Act 1908 as directed under order dt. 26.07.2018 in No. 4876/ E2/ 2012 by the 2nd respondent.

For Appellants : Mr.V.Vijay Narayan, Sr. Counsel
for Mr.Rahul M.Shankhar

For Respondents: Mr.V.Ayyathurai, Sr. Counsel
for Mr.M.Velmurugan for R1
Mr.P.Sathish,
Addl. Govt. Pleader for R2 to R4



JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 12.01.2022 recorded on W.P. No.19204 of 2021. This appeal is by the fourth respondent.

2.1 Mr.V.Vijay Narayan, learned senior advocate for the appellant has submitted that the interference by learned single Judge in the order impugned in the writ petition dated 04.08.2021 was illegal and unsustainable on more than one grounds. It is noted that the learned senior advocate has taken this Court extensively through the pleadings (including separate typed set), vis-a-vis the arguments reflected in the impugned order, which we have considered. According to him, the finding in the impugned order pertaining to condonation of delay by the State Authorities is erroneous. Further on the face of the forgery on the part of the mother of the writ petitioner, no useful purpose could have been served by affording any opportunity, which would have been an empty formality. According to him, so many disputed questions of fact were involved in the matter and therefore the only option left with the original writ petitioner was to approach the civil Court where those questions should not have been gone into. It is submitted that those questions could not have been gone into by learned single Judge in exercise of power under Article 226 of the Constitution of India. It is submitted that the impugned order needs to be interfered with.

2.2 It is noted that, learned senior advocate for the appellant has also compared various documents on record to contend that, even the reference to forensic laboratory was not required to come to conclusion that, fraud was committed by the mother of the writ petitioner and in any case forensic opinion was asked for and was on record with the State Authorities, and based on that opinion, the original first respondent had passed the order which was in no way illegal and therefore that ought not to have been interfered with. It is submitted that this appeal be entertained.

3. Mr.V.Ayyathurai, learned senior advocate for the first respondent/original writ petitioner has also addressed the Court at length. He has submitted that the order passed by the original first respondent was unsustainable in procedure so also on merits and therefore the learned single Judge has rightly interfered in the said order by setting aside it and therefore no interference be made by this Court. It is noted that the learned senior advocate for the contesting respondent i.e. original writ petitioner has also taken this Court extensively through the material on record to contend that no interference



be made by this Court and this appeal be dismissed.

4. Having heard learned senior advocates for the contesting parties i.e. appellant and the original writ petitioner, this Court finds as under:-

4.1 The matrimonial dispute resulted in family dispute which in turn percolated as property dispute, after the death of the concerned persons. Instead of civil court, state functionaries attempted to intervene which resulted in successful writ petition and in turn this writ appeal.

4.2 Mr. K.N.Reddy and Mr. K.K.Reddy were two brothers. Mr. K.N.Reddy was in Indian Navy and after his retirement in Merchant Navy. He had matrimonial dispute with his wife. His family - wife and children did not stay with him during his life time. Said K.N.Reddy used to stay with his brother's family i.e., Mr. K.K.Reddy's family. During his life time, he had executed a power of attorney in favour of wife of his brother - Sarala Reddy on 12.09.1997. It was a registered document. Subsequently sale deed was executed for consideration, which was also a registered document no. 817 of 2005 dated 08.02.2005.

4.3 Said K.N.Reddy died on 10.09.2017. After his death (i.e. of K.N.Reddy), his daughter Archana Reddy filed complaint with the District Registrar complaining that the above referred documents were forged. District Registrar did not accept the said complaint and vide order dated 26.07.2018, asked the parties including the complainant Archana Reddy (i.e daughter of K.N.Reddy) to approach the civil Court for appropriate relief in respect to title over the property in question.

4.4 The said order dated 26.07.2018 was challenged by Archana Reddy on 27.01.2021 before the Inspector General of Registration. An application for condonation of delay was also filed on 28.01.2021. The Inspector General of Registration, assigned the inquiry to the Deputy Inspector General of Registration.

4.5 There was no order condoning delay. Inquiry was conducted.

4.6 Sarla Reddy, Wife of K.K.Reddy died on 25.04.2021.

4.7 On 04.08.2021, an order was passed by the Deputy Inspector General of Registration relevant of which reads as under:-

"Thus from the above findings and the various other submissions of the appellant alleging impersonation of her Father Tr.K.N.Reddy, it is



WEB COPY

hereby concluded beyond doubt that the said Sale and Will document have been registered impersonating Tr.K.N.Reddy and it is ordered accordingly, allowing the appeal.

Hence in accordance with Inspector General of Registration Circular No.41530/U1/2017 dt.31.07.2018, the Sub Registrar Tambaram, is hereby ordered:

(1) To file Police complaints against the fraudsters (Claimants and witnesses) of both the documents viz., Sale Document No.817/2005 and Will Document No.56/2005.

(2) To add a Note in the Index - II of the Sale Document No. 817/2005, as detailed below, so that such a Note gets reflected in the Encumbrance certificate of the property concerned.

"Note : As per DIG Chennai order No.430/B1/2021 Dated 02.08.2021 this document has been found to be fraudulently registered by impersonating the executant K.N.Reddy."

(3) To add the above note in a separate white paper signed by the Registering officer and to be linked to the main documents, viz. No.817/Book I/2005 and No.56/Book 3/2005.

(4) The said Sale document No.817/Book I/2005 and Will document No.56/Book 3/2005 shall not be acted upon as a parent document for any further registrations, since the same have been found to be fraudulently registered.

(5) K.N.Reddy by whom the said Sale and Will document purported to have been executed is no more and hence his genuine legal heirs shall be allowed to proceed with any further registration irrespective of the entry in the Encumbrance Certificate of Document No.4/2018 relating to the Mortgage by way of Deposit of Title Deeds, since the same has been executed by the Claimant of the fraudulent sale document, which is also not valid in the eye of law."

5. The above order dated 04.08.2021 is addressed to two



persons viz., original complainant i.e., Archana Reddy and also to her aunty i.e., Mrs.Sarala Reddy, who had already died on 25.04.2021. The said order dated 04.08.2021 was challenged by the daughter of Sarala Reddy - S.Sangeetha by filing W.P.No.19204 of 2021, joining the original complainant i.e. Archana Reddy as the fourth respondent. Writ petition is allowed vide order dated 12.01.2022 holding the impugned order unsustainable on various counts. The order of learned Single Judge dated 12.01.2022 is challenged by the fourth respondent - daughter of K.N.Reddy by filing this appeal.

6. On conjoint consideration of the above we find that, the argument pressed into service on behalf of the appellant that so many disputed questions of fact are involved in the matter itself would dis-entitle her from getting any relief in this appeal. The appellant who was complainant before the State Authorities claims title over property, once owned by her father, after his death, on the ground that forgery was committed by her aunty with her father before decades. This could not have been adjudicated by the any officer not even the Inspector General of Registration. Civil Court was the only forum, which could have adjudicated this, if otherwise permissible, keeping in view the aspect of limitation, since registered documents were questioned. The District Registrar had already held so. There was no reason for the higher authorities to interfere in that order, that too without condoning delay, if it was otherwise permissible to do so. And if at all it was permissible, in the facts of the case if it was otherwise found to be just and proper to do so. Here nothing was done.

7.Further the order passed by the Deputy Inspector General of Registration was against a dead person. It would not bind her legal heirs.

8.The order passed by the Deputy Inspector General of Registration was on the basis of some material which was used behind back of Sarala Reddy to deprive her of the properties, over which she had title through registered sale deed and also patta duly granted by the State.

9.The enthusiasm on the part of the State Authorities as reflected in the order dated 04.08.2021, if not tainted with other demerits was at least unsustainable on law being arbitrary and illegal. The order of learned Single Judge setting aside that order is perfectly justified and no other view could have been taken. We not only refuse to interfere in the impugned order passed by learned Single Judge at the hands of this appellant, we confirm the said order holding that no other view could have been taken. We also note that learned Single Judge has already reserved liberty to the present appellant to move



the Civil Court on satisfying the limitation. Nothing beyond this could have been done.

10. For the above reasons, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mmi/5

To

1. Deputy Inspector General,
South Zone, Department of Registration,
Chennai.
2. District Registrar (Admin),
Chennai.
3. Sub Registrar - Tambaram,
Sub Registrar Office,
Tambaram.

+1cc to M/s.Rahul M.Shankhar, Advocate, S.R.No.7548

+1cc to the Government Pleader, S.R.No.7351

W.A.No.191 of 2022

KSM(CO)
RGA(16/02/2022)