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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19896 of 2019

N.Valliammai

... Petitioner

vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The Sub Registrar,
Virudhunagar Joint - 2,
No.58/1 Cutchery Road,
Virudhunagar - 626001.

3.The Sub Registrar,
Municipal Community Hall,
Gopalsamy Street,
Ram Nagar, Ambattur,
Chennai - 600053.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st Respondent to issue orders suitably amending the records of Respondents 2 and 3 i.e. Sub Registrar, Virudhunagar and the Sub Registrar, Amabattur and recording that the Settlement Deed dated 24.03.2016 bearing Document No.1982 of 2016 executed between R.Valliammai in favour of Radhammal on the file of SRO, Virudhunagar and General Power of Attorney dated 01.04.2016 bearing Document No.2114 of 2016 executed by Radhammal in favour of Surendiran on the file of SRO, Virudhunagar and transmitted to the file of Sub Registrar, Ambattur, as invalid and void.

For Petitioner : Mr.PL.Narayanan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



ORDER

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This writ petition has been filed to issue a Writ of Mandamus, directing the 1st respondent to issue orders suitably amending the records of the 2nd and 3rd respondents i.e., Sub Registrar, Virudhunagar and the Sub Registrar, Amabattur and recording that the Settlement Deed dated 24.03.2016 bearing Document No.1982 of 2016 executed between R.Valliammai in favour of Radhammal on the file of SRO, Virudhunagar and General Power of Attorney dated 01.04.2016 bearing Document No.2114 of 2016 executed by Radhammal in favour of Surendiran on the file of SRO, Virudhunagar and transmitted to the file of Sub Registrar, Ambattur, as invalid and void.

2. The case of the petitioner is that the petitioner purchased the property comprised in S.Nos.476/2 and 183/1 ad-measuring to an extent of 3600 sq.ft., situated at Oragadam Building Society by the Sale Deed dated 12.04.1979 registered vide Document No.1188 of 1979 on the file of the Sub Registrar Office, Ambattur. While being so, one R.Valliammai settled the said property as 1st item and a vacant house plot bearing No.545 to an extent of 482 sq.ft., as 2nd item of the property registered vide Document No.1982/2016. While executing the Settlement Deed, she was identified by the identity card viz., Voter ID No.PQT 2041214. However, on verification of the said Voter ID, there is no such card issued by the authority and concluded that it was forged one and an impersonator has been used to execute the Settlement Deed. The Settlee viz., one Radhammal through aforesaid settlement deed had executed General Power of Attorney in favour of one Surendiran and he produced his identity card viz., Voter ID No.XCX 1896240. The Settlee viz., Radhammal produced her identity card viz., Voter ID No.RVS 4501201. On verification of the said identity card found that the said card does not exist and as such, the said General Power of Attorney is also fabricated. Thereafter, the said Surendiran attempted to sell the property by way of agreement of sale in favour of one A.Kumar and D.Rajappa and received huge sum of money. The said settlement deed and the power of attorney are fraudulent and void documents. The said Surendiran was arrested and detained under the judicial custody. Therefore, the petitioner requested the 1st respondent to issue suitable direction to the 2nd and 3rd respondents to record those documents as null and void.

3. On perusal of the counter affidavit dated 29.10.2019 filed by the 3rd respondent, revealed that the issue of the



petitioner depends upon the facts and as such, the recourse to the petitioner is to file civil suit to get remedy to discredit the documents which infringes her right. Already, a criminal complaint was lodged by the petitioner and the petitioner has to work out her remedy through police complaint. Therefore, the writ petition itself is not maintainable. In pursuance of the power of attorney, the said Surendiran on behalf of his principal one Radhammal presented the document for registration, which was kept pending as pending Document No.174 of 2018. The 3rd respondent got suspicion and enquired the parties to the sale deed in question. The purchaser, one Rajappa admitted that the sale deed executed in his favour based on the impersonated and forged documents and requested to return the said sale deed unregistered.

4. On perusal of the status report filed by the 1st respondent, revealed that on receipt of the representation from the petitioner, the same has been forwarded to the District Registrar, Virudhunagar and Chennai North to initiate action under Section 68(2) of the Registration Act, 1908 and as per the instruction laid down by the Circular No.41530/U1/2017 dated 08.11.2017. As directed by the 1st respondent, the District Registrar, Virudhunagar has passed suitable orders in the proceedings No.2947/B4/2019 dated 09.09.2019 and in respect of the District Registrar, Chennai North, enquiry is under progress.

5. The learned counsel for the petitioner relied upon the judgement of this Court in the case of S.R.M.Packiri Rajan vs. Inspector General of Registration reported in (2021) 5 MLJ 225, held that where the transaction has been declared to be a fraudulent one by the competent Authority and such order has become final. The Inspector General of Registration shall refer to this order and issue a circular to all the Sub Registrar Officers across Tamil Nadu and directed the Registering Authority to take steps to record the proceedings of the District Registrar in the relevant books and the same should be reflected in the Encumbrance Certificate. This will effectively reverse the earlier entry that was made when the sale deed was executed in favour of the Registering Authority and which has been subsequently held to be fraudulent transaction.

6. It is also seen that one of the purchasers lodged complaint before the Inspector of Police, T-10 Police Station, Thirumullaivoyal and the same was registered in FIR No. 2098 dated 19.10.2017 for the offence under Sections 468, 471, 406 and 420 IPC as against the persons executed the settlement deed



and power of attorney and subsequently, it is culminated into criminal trial and it is pending. Therefore, the petitioner has made out prima facie case that the settlement deed and the power of attorney executed by impersonation and using fabricated documents.

7. In view of the above, the petitioner is directed to lodge fresh complaint before the District Registrar concerned within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the District Registrar concerned is directed to issue notice to the petitioner and counter parties, if any, and after giving opportunity of hearing to them, pass orders in the light of the above observations made by this Court, within a period of twelve weeks, thereafter.

8. With the above directions, this writ petition is disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dm
To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The Sub Registrar,
Virudhunagar Joint - 2,
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