



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7369 of 2022
and
W.M.P.No.7384 of 2022

S.Velavan

...Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.
2. The District Registrar,
Krishnagiri District,
Krishnagiri.
3. The Joint Sub-Registrar-I,
Krishnagiri Sub-Registrar Office,
Krishnagiri.
4. A.S.Saritha
5. Palalraj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd respondent to conduct enquiry in registration of fraudulent document in registering by 3rd respondent in respect of sale deed document No.805/2022 dated on 24.12.2021, based on the petitioner representation dated 04.03.2022 and fixed the time frame.

For Petitioner

: Mr.M.Selvam

For Respondents R1 to R3

: Mr.Yogesh Kannadasan,
Special Government Pleader



O R D E R

WEB COPY The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 04.03.2022 and conduct enquiry with regard to the registration of fraudulent document by 3rd respondent in respect of sale deed Document No.805/2022 dated on 24.12.2021.

2. Learned Special Government Pleader takes notice on behalf of the respondents 1 to 3. In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that, the 4th respondent had borrowed a sum of Rs.15,00,000/- from the petitioner and executed a promissory note for the same and she had agreed to pay the interest every month without default. However, the 4th respondent had neither paid the interest amount nor the principal amount to the petitioner. Therefore, the petitioner filed a suit for recovery of the amount as against the 4th respondent in O.S.No.184 of 2021 before the Additional District Cum Sessions Court, Dharmapuri and further, the petitioner has also filed I.A.No.2 of 2021, for attaching the properties comprised in S.Nos.394/1A, 399/D, 397, 397/1 and 92/2, situated at Kothikutlapalli village and the same are pending. While such being the case, the 4th respondent is trying to alienate the above said properties in favour of the third parties. Aggrieved by the same, the petitioner made a representation dated 09.11.2021 before the respondents 1 to 3, requesting not to entertain any of the document relating to the above said properties for registration.

4. Thereafter, the petitioner filed a writ petition before this Court in W.P.No.25011 of 2021 and the same was dismissed on 23.11.2021, by granting liberty to the petitioner to file protest petition and also directed the registering authorities to consider the same and conduct enquiry in between the petitioner and the private respondents and pass orders. Pursuant to the order of this Court, the petitioner filed protest petition before the registering authorities, however, till date, no orders have been passed on the same. Hence, the present writ petition is filed with the above relief.



5. Though very many grounds have been raised, learned counsel for the petitioner submitted that, it would suffice if this Court issues direction to the 2nd respondent to consider the petitioner's representation dated 04.03.2022, conduct enquiry in between the petitioner and the private respondents in the light of the order of this Court dated 23.11.2021 and pass appropriate orders in accordance with law as expeditiously as possible.

6. Learned Special Government Pleader appearing on behalf of the respondents 1 to 3 submitted that, the 4th respondent is the owner of the above said properties. Though the petitioner claim that he has filed a suit for recovery in O.S.No.184 of 2021 before the Additional District Cum Sessions Court, Dharmapuri, and I.A.No.2 of 2021, to attach the disputed properties, however, the same were pending and no restraint orders were passed as against the registering authorities. Whiles, the 4th respondent executed a sale deed dated 24.12.2021 in Document No.805 of 2022 in favour of the 5th respondent, however, in the absence of any such restraint order, the 3rd respondent is entitled to register the sale deed presented before him for registration and thereby, addressing the said sale deed as fraudulent document is not sustainable. He further submitted that, the 2nd respondent is not the competent authority to decide upon the complaint filed by the petitioner. Hence, he prayed for dismissal of the present Writ petition.

7. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. Admittedly, the 4th respondent is the owner of the above disputed property and though the petitioner claim that the 4th respondent has borrowed a sum of Rs.15,00,000/- from him, however, the petitioner has filed a recovery suit in O.S.No.184 of 2021 and the same is pending before the Additional District Cum Sessions Court, Dharmapuri. When there is no restraint order passed against the 3rd respondent, restraining the 3rd respondent from registering the said sale deed dated 24.12.2021 is not sustainable. Further, in the absence of any restraint order, the 4th respondent is entitled to alienate her property in favour of the 5th respondent and execution of the said sale deed dated 24.12.2021 in Document No.805 of 2022 cannot be addressed as fraudulent document. Hence, the prayer sought for by the petitioner cannot be acceded to.



9. Therefore, for the reasons aforesaid, this writ petition is dismissed. However, petitioner is at liberty to workout the remedy for the recovery of the money as against the 4th respondent in the manner known to law. No costs. Consequently, connected Miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

skt
To

1. The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.
2. The District Registrar,
Krishnagiri District,
Krishnagiri.
3. The Joint Sub-Registrar-I,
Krishnagiri Sub-Registrar Office,
Krishnagiri.

+1cc to M/s.M.Selvam, Advocate Sr.24785
+1cc to the Government Pleader Sr.25792

W.P.No.7369 of 2022
and
W.M.P.No.7384 of 2022

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