



WP.No.5353 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.5353 of 2016
and
WMP.Nos.4665 & 4667 of 2016

C.Raju ... Petitioner
Vs

1. The Inspector General of Registration,
Puducherry.

2. The District Registrar,
Registration Department, Puducherry.

3. Bhavani

4. Manickam

5. The Sub Registrar,
Office of the Sub Registration,
Oulagret, Puducherry.

6. Tamil Selvi

7. Anusha

8. Dhanavanthini

9. Brindha ... Respondents

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Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus challenging the circular of the first respondent dated 18.03.2015 in Circular No.8969/REGN/C3/DRDM/2014 made in DRT.No.14/2015/34 and quash the same and consequently, direct the respondents 6 to 9 to cancel the sale deeds in Document Nos.425, 426 & 428 of 2016 on the file of the 5th respondent.

For Petitioner : Mr. G.Krishnakumar

For Respondents : Mr. J.Kumaran, AGP (P) RR1, 2 & 5
Mr.R.Bharanidharan RR3 & 4
Mr.B.Balavijayan R7

ORDER

This petition has been filed seeking to quash the Circular No.8969/REGN/C3/DRDM/2014 made in DRT.No.14/2015/34, dated 18.03.2015 passed by the first respondent and consequently, direct the respondents 6 to 9 to cancel the sale deeds in Document Nos.425, 426 & 428 of 2016 on the file of the 5th respondent.

2. The case of the petitioner is that the property originally belonged to one Ponnambalam, who is the grandfather of the third



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respondent. The said Ponnambalam had executed a Will. As per the recital of the Will, the sons of Ponnambalam are entitled only enjoyment of the rights and the saleable rights over the properties goes to only male grand children of all his three sons. When there is no male grand children, the female grand children are entitled to have saleable rights over the property. On the contrary to the Will, one Puruvammal, Murugan and Manickam have executed a Power deed No.161/1990 dated 09.03.1990 in favour of one Pushparaj and on the basis of which, the said Pushparaj had executed the Sale Deed No.2539/2008 and 2540/2008 dated 19.05.2008. To annul the above said documents, the 3rd respondent herein had filed a petition before the second respondent for cancellation of certain fraudulent documents dated 09.03.1990 and 19.05.2008 under section 68(2) of the Registration Act and circular dated 18.03.2015. Pursuant to which, the petitioner appeared before the second respondent on 13.11.2015 and seeking time to file counter. At his request, an enquiry was posted on 24.11.2015. However, without affording sufficient opportunity, the second respondent passed the impugned order annulling the above said documents and to issue a direction to the respondents to initiate the criminal prosecution under the Registration



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Act. Challenging the said proceeding dated 23.12.2015, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submitted that the documents which were registered in the year 2008, were placed for cancellation and there is no power vested under the statute to cancel the document which was registered and further, the period of limitation is also prescribed in the limitation Act. The Circular dated 18.03.2015, in which the third respondent made a complaint, is itself subsequently withdrawn by the first respondent on 05.08.2021. The learned counsel prays to set aside the impugned order on the above said grounds and allow the writ petition.

4. The learned counsel for the third respondent submitted that subsequent to cancellation of the documents, the third respondent alienated the property in favour of the private respondents and the said alienation was not challenged in the manner known to law and therefore, the learned counsel prays to dismiss the present petition.



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5. The learned Addl. Government Pleader submitted that in the present case, the third respondent made a complaint based on the Circular dated 18.03.2015 for annulling the above said documents. Pursuant to which, the second respondent has annulled the documents. Subsequently, the first respondent has withdrawn the said circular on 05.08.2021 stating that the orders passed based on the said circular are also deemed to be withdrawn. The learned counsel prays that this Court may pass appropriate orders on merits.

6. Heard the learned counsel for the petitioner, learned counsel appearing for the private respondents as well as the learned Additional Government Pleader (P) appearing on behalf of the respondents and perused the materials available on records.

7. The facts of the case are not in dispute. Admittedly, the third respondent made a complaint for annulling the above said documents in terms of Section 68(2) of the Registration Act and Circular dated 18.03.2015. For better understanding, Section 68(2) of the Act is extracted



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hereunder:

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"68(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered."

8. On perusal of the above said provisions, it is seen that the second respondent have no power to annul the document and he can only rectify the error committed in the registered documents. However, the fact remains that the Circular dated 18.03.2015 has also been withdrawn by the first respondent in the year 2021. In view of the above discussion, this Court has to necessarily interfere with the order impugned dated 23.12.2015 passed by the second respondent.

9. Considering the facts and circumstances of the case, this Court is hereby set-aside the impugned order dated 23.12.2015 passed by the second respondent and accordingly, the writ petition stands allowed. No



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costs. However, liberty is granted to the private respondents to work out their remedy in the manner known to law. Consequently, connected miscellaneous petitions are closed.

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Rli

Index:Yes/No

Internet:Yes/No

Speaking/Non speaking

To

1. The Inspector General of Registration,
Puducherry.

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Puducherry.5. The Sub Registrar,
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