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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.12480 of 2014
and M.P.Nos. 1 and 2 of 2014

P.S.Mohammed Ilyas

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
3. The District Registrar (Administration),
Registration Department,
North Chennai.
4. The Sub-Registrar,
Sowcarpet Registration Office,
Davidson Street, Broadway,
Chennai - 600 001.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records comprised in the impugned communication in No.56751/U1/2013, dated 11.12.2013 on the file of the second respondent and quash the same.

For Petitioner : M/s.M.Sneha

For Respondents : M/s.Krishna Raj
Additional Government Pleader

O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records comprised in the impugned communication in No.56751/U1/2013, dated 11.12.2013 on the file of the second respondent and quash the same.



2. The petitioner has entered into a Sale Agreement with one P.Vijayaraj by virtue of a registered Document No.948/2013 on the file of the Sub Registrar, Sowcarpet, Chennai. This document was declared to be a forgery document and the entries were made in the registers of the Sub Registrar's Office, Sowcarpet, not to register any document on the basis of the forgery document No.730/1969 registered at the office of the Sub Registrar, Purasawalkkam and also other documents on the basis of the sale bearing registration No.948/2013 on the office of Sub Registrar, Sowcarpet. This order appears to have been passed on the basis of the verification made by the Officials of the Registration Department without providing an opportunity to the petitioner and the other persons concerned with the documents.

3. As per Circular No.67, dated 03.11.2011 of the second respondent, mandatory procedure is prescribed to deal with the complaints relating to fraudulent registrations through impersonation or production of false documents and evidences. The procedure is extracted as under:-

" In the light of the above discussion, following mandatory procedure is prescribed to deal with the complaints relating to fraudulent registrations through impersonation or production of false documents and evidences.

(a) All such complaints of fraudulent registration received by the department have to be forwarded to the respective District Registrar (Admin) who shall register the same in a register of complaints relating to fraudulent registration in the following format.

SI. No	Date	Name and address of the applicant	Document No. and SR Office name	Name and address of the executants, claimants and witnesses

(b) After entering the complaint, he shall issue notices to the executants of the document and witnesses to appear for enquiry along with the complainant and he should also take witness of the registering officer and if needed, call for the records from the revenue department and also summon the respective Village Administrative Officer (VAO) to appear before him with the village accounts.



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(c) Once the enquiry is completed following summary procedure and it is proved that the registration has taken place through impersonation and through production of false documents and statements/admissions, he shall pass orders to this effect, recording his findings and issue direction to the concerned registering officers to file FIR against the concerned persons and also to make a note in the Index-II of the document which was fraudulently registered to the effect that the "registration is annulled as per the proceedings of the District Registrar (proceeding no. to be noted) and is shall have same effect as prescribed under Section 49 of the Registration Act".

(d) After receiving the order of the District Registrar, the registering office shall immediately file FIR and make entries as stated above in Index-II without any loss of time. The registering officer shall maintain a separate register in this regard in his office to register all such orders of the District Registrar in following format.

SI. No	Date of receipt of the order of DR	Proceeding No	Doc No. of the Document to be annulled	Date of filing FIR	Date of making note in Index-II	Signature of the registering officer

(e) The District Registrar should complete the enquiry maximum in two months in each case and if the parties are not appearing for more than 2 summons, ex-parte order should be passed based upon the documents, evidences and witnesses available. While issuing summons, mode of RPAD should be adopted.

However, these instructions will not apply to the case where the complainant has admitted execution by himself due to whatever reasons. It is further exphasized that the procedure prescribed above is only deal with fraudulent registrations done and it should in no way be construed to mean that the registering authority shall go into the



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issue of deciding title in case of rival claims on certain basis.

Any failure in registering complaints relating to fraudulent registration through impersonation or production of false documents/statements etc., and initiation of enquiry followed by filing of FIR and making of annulment entries in Index-II shall be viewed seriously and necessary disciplinary action will be initiated against the concerned District Registrar (Admin) and the registering officer."

As per Clause (b) of the mandatory procedure, the District Registrar (Administration) shall issue notices to the executants of the documents and witnesses to appear for enquiry along with the complainant and also take witness of the registering officer and if needed, call for the records from the revenue department and also summon the respective Village Administrative Officer (VAO) to appear before him with the village accounts. This procedure contemplates adherence to principles of natural justice. As per Section 80 of the Registration Act, the authority has power of Civil Court.

4. It is also submitted that this Circular No.67, dated 03.11.2011, has been superseded by a Circular, in which also the very same procedure in conformity with the principles of natural justice has been contemplated. Insofar as, the document pertaining to the petitioner, which was declared as forgery document is concerned, restrictions were imposed not to register any document on the basis of the same. Non-registration of documents on the basis of the petitioner's document, that too, where no fault or fraud is attributed to the petitioner will definitely cause civil consequences and hardship to the petitioner. Therefore, he is entitled to an opportunity of hearing before any restrictions being passed. The order as such passed without giving an opportunity is violative of principles of natural justice and is not sustainable. Hence, the same is set aside. Consequently, the second respondent is directed to conduct an enquiry into the complaint made by the petitioner as per the Circular issued by the Registration Department.

5. However, it is made clear that the entries with regard to Document No.730/1969 at the office of the Sub Registrar, Purasawalkkam and the consequential Sale Agreement registered in favour of the petitioner under registration No.948/2013 at the office of the Sub Registrar, Sowcarpet shall remain till completion of the enquiry to be conducted by the officer concerned. Further, a direction is issued to the second respondent to pass appropriate orders subject to the result of the enquiry. The enquiry shall be completed within a period of two (2) months after affording opportunity to the petitioner and



all the parties concerned from the date of receipt of a copy of this order.

The Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Principal Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
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3. The District Registrar (Administration),
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+1cc to Mr.A.Selvendran, Advocate, S.R.No.26626

W.P.No.12480 of 2014
and M.P.Nos. 1 and 2 of 2014

SR(CO)
KM(28/04/2022)