



WEB COPY



W.P.No.19486 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19486 of 2022

and

W.M.P.No.18782, 29468 and 29468 of 2022

Babu Punniyamoorathi

... Petitioner

VS.

1. The District Registrar,
Cuddalore,
Cuddalore District.

2. The Sub Registrar,
Cuddalore,
Cuddalore District.

3. Vishnupriya

4. B.Suriyakala

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records of the impugned notice dated 01.07.2022 vide his proceedings in Na.Ka.No.1471/Aa1/2022 passed by 1st respondent and quash the same.



WEB COPY



W.P.No.19486 of 2022

For Petitioner : Mr.M.R.Jothimanian
For R1 and R2 : Mr.E.Vijay Anand
Additional Government Pleader
For R3 : Mr.K.R.Vishnupriya @
Haritha Advocate (Party in Person)
For R4 : Mr.R.Sankarasubhu

ORDER

Writ petition has been filed seeking issuance of a writ of certiorari to quash the proceedings in Na.Ka.No.1471/Aa1/2022 of the first respondent dated 01.07.2022.

2. It is the case of the petitioner that he is the owner of the property in S.No.193/4 admeasuring 0.70.0 ares situated in C.Thandeswaranallur Village, Chidambaram Taluk, Cuddalore District by virtue of registered Will dated 14.12.2009 executed by one Late Meera. The said Meera originally purchased the aforesaid property from one Janarthanamammal and Ramabaiammal vide sale deed dated 16.09.1993. After the demise of said Meera, the Will dated 14.12.2009 came into force. As per the said Will, the petitioner became the owner of the aforesaid property. While that being so, a



W.P.No.19486 of 2022

joint patta in patta No.462 for the aforesaid property in S.No.193/2 (Old S.No.193/2, New S.No.193/4) was issued in favour of the petitioner and one Pappu Ammal. In order to delete the name of the petitioner, the third respondent i.e., daughter of fourth respondent made an application before the Sub Collector, Chidambaram, pursuant to which, the Sub Collector, Chidambaram issued notice to the petitioner vide proceedings dated 03.11.2020, and the same was objected by the petitioner. However, without considering the objections raised by the petitioner, the Sub Collector removed the petitioner's name from the patta in respect of the aforesaid land vide proceedings dated 04.02.2020. Aggrieved over the same, the petitioner preferred an appeal before the District Revenue Officer, Cuddalore and the same is pending adjudication.

3. It is the further case of the petitioner that the fourth respondent filed a writ petition in W.P.No.18748 of 2019 which was dismissed by this Court vide order dated 21.11.2019 granting liberty to the fourth respondent to work out her remedy before the competent civil court on the ground that factual disputes cannot be decided under Article 226 of the Constitution. Against the



W.P.No.19486 of 2022

said order, the fourth respondent preferred an appeal in W.A.No.145 of 2020, wherein the Hon'ble Division Bench of this Court vide judgment dated 14.09.2020, disposed of the same, with liberty to the petitioner therein / fourth respondent to approach the Sub Registrar or the Civil Court, pursuant to which, the third respondent made an application / complaint before the first respondent on 16.03.2022, for cancellation of the aforesaid sale deed dated 16.09.1993, for which, the impugned notice vide proceedings dated 01.07.2022, was issued by the first respondent to the petitioner to appear before the first respondent along with relevant documents on 28.07.2022. Challenging, the said notice dated 01.07.2022, the present writ petition has been filed seeking the aforesaid relief.

4. It is pointed out by the learned counsel appearing for the petitioner that admittedly the fourth respondent filed a writ petition in W.P.No.18748 of 2019 wherein this Court vide order dated 21.11.2019 dismissed the writ petition with liberty to the fourth respondent to work out her remedy before the competent civil Court holding that the dispute is with regard to the title and not a fraudulent registration and in the appeal in W.A.No.145 of 2020,



W.P.No.19486 of 2022

the Hon'ble Division Bench of this Court vide judgment dated 14.09.2020, affirmed the conclusion drawn by the Hon'ble Single Judge in W.P.No.18748 of 2019. Contrary to such finding rendered by the Hon'ble single Judge and the Hon'ble Division Bench, the first respondent / District Registrar had acted on the complaint dated 16.03.2022, which has been filed after a lapse of two years, which delay has not been explained.

5. Learned counsel for the petitioner in support of his contention, relied upon the decision of this Court in the case of ***P.Rukumani and ors. Vs. Amudhavalli and ors.*** reported in ***(2020) 1 CTC 241***. The relevant portion of the above said decision is extracted hereunder:

*“9. Considering the submissions made at the bar, we are of the clear opinion that in a case relating to execution of a conveyance deed or a sale deed or cancellation thereof, **if there is any dispute about the rights of the parties involved therein, the only appropriate remedy for the parties is to approach the Civil Court by way of civil suit.** The act of registration of a document is a consequential act which will be subject to the decree of Civil Court in case such a*



W.P.No.19486 of 2022

dispute arises.

*10. We are of the clear opinion that such a relief could not have been sought or granted in Writ Jurisdiction under Article 226 of the Constitution of India. The civil rights of the parties based on relevant evidence can only be determined by a Civil Court by a competent Civil Court and not by the writ Court under Article 226 of the Constitution of India. Such private rights of the parties cannot be made a subject matter of writ jurisdiction. **The Writ petitions under Article 226 of the Constitution of India lie only against the State or instrumentally of the State as defined under Article 12 of the Constitution of India.** Therefore, such determination of private civil rights of the parties cannot be made subject matter of writ petition.”*

6. Further the Division Bench of this Court in the above said decision reported in *Rukmani's case (supra)* made it clear that if any dispute with regard to the rights of the parties is involved, the only remedy for the parties is to approach the competent civil Court by way of a civil suit. However, contrary to the dictum laid down in the above judgment the first respondent had entertained the complaint made by the third respondent, that too after a



W.P.No.19486 of 2022

lapse of two years from the date of the said order for the cancellation of a sale deed, which was executed in the year 1993, i.e., almost three decades after the registration of the said sale deed. Accordingly, he prayed for allowing this writ petition.

7. Per contra, learned counsel appearing for the third and fourth respondents submitted that though the earlier round of litigation instituted by the fourth respondent in W.P.No.18748 of 2019 was negated by this Court vide order dated 21.11.2019, the Hon'ble Division Bench of this Court in W.A.No.145 of 2020 vide judgment dated 14.09.2020, disposed of the said appeal with liberty to the fourth respondent to seek her remedy in accordance with law either before the Sub Registrar, or before the Civil Court or even before the Revenue Authorities. Learned counsel further relied upon the circular(s) issued by the Inspector General of Registration which indicate the procedure to be followed to deal with the complaint relating to fraudulent registration and the subsequent amendment u/s 77A of the Registration Act, 1908 which authorizes the jurisdictional Registrar to entertain the complaint with regard to cancellation of registered documents and based on the



W.P.No.19486 of 2022

judgment dated 14.09.2020 of the Hon'ble Division Bench of this Court in W.A.No.145 of 2020, the third respondent made a complaint before the first respondent for cancellation of sale deed executed in the year 1993, which is perfectly in order and unless the abovesaid direction of the Hon'ble Division Bench of this Court is modified, the order passed by the respondents cannot be said to be unsustainable. Accordingly, he prayed for dismissal of this writ petition.

8. Learned Additional Government Pleader appearing for respondents 1 and 2 submitted that the first respondent has the jurisdiction to entertain the complaint with regard to cancellation of registered documents and if such complaint appears to be frivolous or if there are any materials to substantiate the same, as alleged by the third respondent, the same will be decided in the manner known to law after affording an opportunity of hearing to the petitioner as well as the third and fourth respondents. Accordingly, he prayed for dismissal of this writ petition.

9. Heard the learned counsel appearing on either side and perused the



W.P.No.19486 of 2022

materials placed on record.

WEB COPY

10. It is an admitted fact that the fourth respondent filed a writ petition in W.P.No.18748 of 2019 and the said writ petition was dismissed by this Court vide order dated 21.11.2019, against which the fourth respondent preferred an intra-court appeal in W.A.No.145 of 2020 and the same was disposed of vide Judgment dated 14.09.2020. The relevant portion of the judgment passed by Hon'ble Division Bench of this Court is extracted hereunder:

“8. But, Mr.T.M.Pappiah, learned Special Government Pleader for the respondents submits that in the event, there is any forgery or impersonation, the same can be enquired into by the Sub Registrar in the wake of Government Orders issued in this regard from time to time.

9. Having considered the aforesaid submissions raised, it would be appropriate that the said remedy may be availed of by the appellant, in case available and in the event it is permissible as per the Government Orders and it will be open to the Sub Registrar to conduct any such enquiry after putting to notice any concerned party



W.P.No.19486 of 2022

and considering all objections, including the authority to enquiry and proceed in this regard, if raised.

10. The question of seeking cancellation of any document can only be gone into through a Civil Suit as observed by the learned Single Judge and we, therefore, affirm the aforesaid conclusion drawn by the learned Single Judge, with liberty to the appellant to seek her remedy in accordance with law either before the Sub Registrar, or the Civil Court or even before the Revenue Authorities who may be entitled to conduct an enquiry under the relevant law for the time being in force.”

11. The dictum laid down in the aforementioned judgment dated 14.09.2020 in W.A.No.145 of 2020 (supra) gives a fitting answer to the issue raised in this writ petition, wherein, the Hon'ble Division Bench of this Court granted liberty to the petitioner therein / fourth respondent to seek her remedy in accordance with law either before the Sub Registrar, or the Civil Court or before the Revenue Authorities. It is pointed out by the learned counsel appearing for the respondents 3 and 4 that as per the abovesaid judgment of the Hon'ble Division Bench of this Court, the third respondent made a complaint dated 16.03.2022 for cancellation of sale deed dated 16.09.1993,



W.P.No.19486 of 2022

before the first respondent, pursuant to which the impugned summon dated 01.07.2022 was issued to the petitioner, which is perfectly in order and the same cannot be interfered with. Hence the prayer sought for by the petitioner cannot be acceded to.

12. Therefore, the first respondent is directed to proceed with the enquiry by providing an opportunity of hearing to the petitioner and the third and fourth respondents and pass orders on merits and in accordance with law without in any way being influenced by any of the observation made in this writ petition also by scrupulously following the directions issued by the Division Bench in W.A. No.145 of 2020.

13. With the above observation and direction this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17.11.2022

RAP

Index : Yes / No

Speaking order : Yes / No



W.P.No.19486 of 2022

To:

WEB COPY

1. The District Registrar,
Cuddalore,
Cuddalore District.
2. The Sub Registrar,
Cuddalore,
Cuddalore District.



WEB COPY



W.P.No.19486 of 2022

M.DHANDAPANI, J.

RAP

W.P.No.19486 of 2022

17.11.2022