



W.P.No.33558 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.33558 of 2022
and W.M.P.No.33016 of 2022

V.Radhakrishnan

.... Petitioner

-Vs-

1.The Inspector General of Registration
Santhome High Road, Chennai 600 028.

2.The District Registrar
Registration Department
Tiruppur, Tiruppur District.

3.The Revenue Divisional Officer
Udumalpet, Tiruppur District.

4.The Tahsildar
Udumalpet Taluk
Tiruppur District.

5.The Sub-Registrar
Udumalpet, Tiruppur District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st and 2nd respondents or any other District Registrar to be appointed by this Hon'ble Court to conduct enquiry on the complaint made by the petitioner dated 12.10.2022 against the fraudulent transaction of the land in S.F.No.521/1 and 521/3 Andiyagoundanur-2 Village, Udumalpet Taluk, Tiruppur District within a time frame to be fixed by this Hon'ble Court.



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For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 1st and 2nd respondents or any other District Registrar to be appointed by this Hon'ble Court to conduct enquiry on the complaint made by the petitioner dated 12.10.2022 against the fraudulent transaction of the land in S.F.No.521/1 and 521/3 Andiyagoundanur-2 Village, Udumalpet Taluk, Tiruppur District within a time frame to be fixed by this Hon'ble Court.

2. The landed property in S.F.No.521/1 and 521/3 Andiyagoundanur-2 Village, Udumalpet Taluk, Tiruppur District is the subject property. According to the petitioner, the subject property originally belonged to one Rukmaniammal who is none other than the mother-in-law of the petitioner. The said Rukmaniammal had three daughters viz., Krishnaveni, Neelavathi and Muthammal. Krishnaveni is none other than the wife of the petitioner. Apart from these three daughters, there are two sons for the said Rukmaniammal viz., Loganathan and Rajagopal. A partition was effected in the subject property and according to the petitioner, that is how Rukmaniammal became the owner of the property, from whom the three daughters inherited the property by way of



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Muchalika dated 13.10.1999. That is how the three daughters have become the owners of the property, which is in question. Thereafter, among the three daughters, the petitioner's wife Krishnaveni got a release deed from the other two daughters viz., Neelavathi and Muthammal. Therefore, Krishnaveni / wife of the petitioner has become the absolute owner of the property in question, who in turn settled the property by way of a settlement deed to and in favour of the petitioner.

3. In the meanwhile, the two brothers of the three daughters of Rukmaniammal who are the brothers-in-law of the petitioner seems to have made some encumbrances in the property and now there are two types of documents; one is settlement in favour of the petitioner and another is some encumbrances made by the brothers of the three daughters who are none other than the brothers-in-law of the petitioner. The petitioner questioned the encumbrances ie., documents made among the brothers by making a complaint before the District Registrar under Section 77A of the Registration Act. Likewise, those brothers, who are the brothers-in law of the petitioner questioned the settlement deed made by the wife of the petitioner in favour of the petitioner of course under the very same Section 77A of the Act. Both parties had already filed separate writ petitions seeking for mandamus for the District Registrar to enquire the matter on the complaint given by them respectively. In both cases



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orders were passed accordingly. Subsequently one of the brother-in-law of the petitioner approached this Court and filed a writ petition stating that, there has already been a partition suit pending before the Court concerned and in the meanwhile if any enquiry is conducted by the District Registrar pursuant to the mandamus already been issued, thereafter if any orders are passed either cancelling the document already executed, there will be repercussion in the civil suit and therefore till the disposal of the civil suit, the District Registrar can be directed to defer the enquiry proceedings.

4. That was accepted by the learned Judge of this Court in the said Writ Petition ie., W.P.No.6186 of 2022 by order dated 11.04.2022, where the learned Judge, without expressing any opinion on the merits of the case, issued a direction to the 2nd respondent in the said writ petition ie., the District Registrar, who, by name has been impleaded in the said writ petition, to defer the enquiry on the complaint made by the 5th respondent therein ie., the present petitioner till the disposal of the partition suit filed by the petitioner one Loganathan, who is none other than one of the brothers-in-law of the petitioner in O.S.No.408 of 2021 on the file of the III Additional District Court, Dharmapuri.

5. As against the said order, the petitioner filed a review application in Review Application No.165 of 2022 and the same having been considered, was



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decided by the learned Judge by order dated 27.09.2022, where he has passed the following order.

“ 7. Accordingly, paragraph no.7 of the order dated 11.04.2022 in W.P.No.6186 of 2022 is to be read as follows:

7. In view of the aforesaid submissions, this Court, without expressing any opinion on the merits of the case, directs the first respondent to nominate a District Registrar namely Mr.R.Ramasamy, after nomination of a District Registrar, the nominated District Registrar shall take up the petitioner's complaint dated 22.11.2021 and the first respondent's complaint dated 28.12.2021, issue notice, conduct enquiry after giving an opportunity of hearing to them, pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.”

8. Accordingly, this Review Petition stands disposed of with the above modification. The Registry is directed to make necessary correction in the said order and issue fresh copies.”

6. Therefore, the decks were cleared by this order. Ultimately, the final review order dated 27.09.2022 under which this Court directed the District



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Registrar to conduct the enquiry and pass orders on both the complaints given by the parties, one by the petitioner herein and another by his brothers-in-law against each other with regard to the alleged fraud encumbrances made in the subject property.

7. Only at this juncture, the petitioner has moved the present writ petition. Mr.G.Sankaran, learned counsel for the petitioner has submitted that, the reason as well as the cause of action which arise in this writ petition is that, the original order passed by the writ Court in W.P.No.6186 of 2022 filed by the brother-in-law of the petitioner some time in April 2022 and subsequently in the review petition order was passed on 27.09.2022 ie., September 2022. In between the five months period ie., from April to September 2022, according to the learned counsel for the petitioner, the petitioner's brother-in-law had encumbered the property by registering at least 12 documents.

8. Therefore, in order to conduct an enquiry with regard to those 12 documents also, as according to the petitioner, those are all fraudulent documents, the petitioner had given an additional complaint on 12.10.2022 to the District Registrar concerned. However, the said District Registrar seems to have refused to take up the additional complaint given by the petitioner dated 12.10.2022 in respect of the subsequent transaction taken place at the behest of

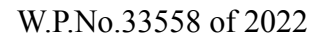


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the brother-in-law of the petitioner between April and September 2022.

Therefore, the learned counsel for the petitioner seeks the indulgence of this Court in this writ petition that, let there be a direction to the District Registrar concerned who is conducting the enquiry, to take up the complaint additionally given by the petitioner dated 12.10.2022 also and let him make a combined enquiry and take a decision thereon, including the 12 transactions that had taken place between April and September 2022, and that is why this writ petition has been moved, he contended.

9. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents, who on instructions would submit that, insofar as the complaint made by the petitioner to take up the additional complaint made by him dated 12.10.2022, if that is also a complaint under Section 77A of the Registration Act, 1908, certainly that would also be taken into account for the purpose of enquiring the matter, as it is the statutory duty vested with the District Registrar under the said provision and when the parties are one and the same in the original complaint as well as counter complaint and the present complaint dated 12.10.2022, there could be no further impediment for the District Registrar concerned to take up the additional complaint as one of the subject matter for joint enquiry and therefore, to that effect the writ petition can be disposed of with suitable directions.



11. If a complaint is given under Section 77A of the Act, the District Registrar since is the competent authority, has to enquire the matter by giving notice to the persons against whom such complaint is given, as well as the complainant and accordingly he can take a decision as to the genuineness of the documents in question.

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"That there shall be a direction to the 2nd respondent to take up the additional complaint of the petitioner dated 12.10.2022 along with the earlier complaint given by the petitioner as well as the counter complaint given by the brother-in-law of the petitioner viz., Loganathan and the legal heirs of his another brother-in-law Rajagopal and enquire into all the complaints jointly by issuing summons to all necessary parties including the persons in favour of whom third party rights were created by virtue of the transactions created and pass necessary orders within a period of 12 weeks from the date of receipt of a copy of this order."

13. With the above directions, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

13.12.2022

Index : Yes/No
Internet : Yes/No
KST



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To

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R. SURESH KUMAR, J.

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