



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.10734 of 2012

and

M.P. (MD) .No.1 of 2012

Therese Marry

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome,
Chennai.

2.The District Registrar (Administration),
District Registrar Office,
Court Campus,
Cantonment,
Trichy -1.

3.A.Ramaraj

... Respondents

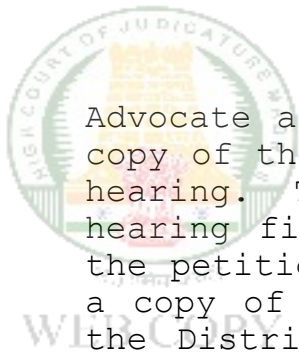
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the second respondent in her proceedings vide Ref.Na.Ka.No.5754/A1/2012, dated 25.06.2012, canceling the settlement deed dated 19.02.2010 registered as Document No.1155 of 2010 in the Sub Registrar's Office. Tiruverumbur, Tiruchirapalli, quash the same.

For Petitioner : Mr.P.Thiagarajan
For R1 & R2 : Mr.K.S.Selvaganesan
Government Advocate
For R3 : Mr.R.Govindaraj

O R D E R

The present writ petition has been filed challenging an order passed by the District Registrar invoking his powers under Circular No.67/11, dated 03.11.2011, under which a settlement deed in favour of the writ petitioner dated 19.02.2010 was cancelled.

2. The learned counsel for the petitioner submits that on the first date of hearing, the petitioner had appeared through an



Advocate and sought for a copy of the complaint. However, the said copy of the complaint was not furnished to him on the first date of hearing. Thereafter, the petitioner received second notice of hearing fixing the date of enquiry as 11.06.2012. On 08.06.2012, the petitioner counsel made an attempt to file a vakalat and to get a copy of the complaint. However, the vakalat was not received by the District Registrar. Hence, the counsel for the petitioner had issued a telegraphic notice on 08.06.2012 that he has not received the complaint copy and other documents annexed to the complaint copy.

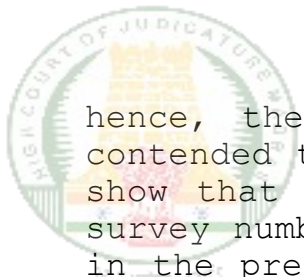
3. On 25.06.2012, the impugned order has been passed by the second respondent herein after holding that the petitioner has not appeared for the enquiry, despite notice and she was set ex-parte. The second respondent has considered the documents filed on the side of the third respondent and cancelled the settlement deed in favour of the writ petitioner dated 19.02.2010. The said order is under challenge in the present writ petition.

4. The learned counsel for the petitioner submitted that the impugned order has been passed without proper opportunity being granted to him and without furnishing the copy of the complaint.

5. On perusal of the typed set of papers, I could see that though the petitioner had appeared on the first date of hearing and requested a copy of the complaint, the copy of the said complaint has been sent by the second respondent office only on 22.06.2012. The impugned order does not refer to the second notice dated 11.06.2012 or to the fact that the copy of the complaint was furnished to the writ petitioner only on 22.06.2012. A perusal of the impugned order shows that the petitioner was set ex-parte on 05.06.2012 and thereafter, the present impugned order has been passed. Hence, it is evident that the impugned order is vitiated for the violation of principles of natural justice. Hence, I am inclined to set aside the said impugned order.

6. The impugned order has been passed by the second respondent herein invoking the powers under Circular No.67/11, dated 03.11.2011, under which he was empowered to conduct an enquiry with regard to the validity of the documents already registered. The said power conferred upon the second respondent herein has been withdrawn by way of another circular, dated 20.10.2017. Hence, as on today, the second respondent has no jurisdiction to conduct an enquiry with regard to the alleged validity of the settlement deed in favour of the petitioner dated 19.02.2010. Hence, the question of remitting the matter back to the second respondent does not arise.

7. The learned counsel for the third respondent contended that though the petitioner or his ancestors did not have any title over the entire extent of 11.77 acres, a settlement deed has been



hence, the said settlement deed has no validity. He had further contended that a series of registered documents in his favour would show that he is entitled to an extent of 2 acres in the disputed survey number. I find that these disputed facts cannot be gone into in the present writ petition. However, the contention of the third respondent is that some false statements have been made in the settlement deed dated 19.02.2010 and based upon the said statements, the document has been registered. Hence, he has requested that an enquiry be conducted by the Sub Registrar, Thiruverumbur into the said allegations and in case, if he finds any truth in the said allegations, he may proceed under Section 83 of the Registration Act.

8. In view of the above said observation, I find that the impugned order cannot be sustained. However, the Sub Registrar, Thiruverumbur is directed to conduct an independent enquiry with regard to the allegations made by the third respondent herein, after giving due opportunity and personal hearing to both the parties and proceed further in accordance with law.

9. With the above said observations, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar()

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

akv

To

- 1.The Inspector General of Registration,
Registration Department,
Santhome,
Chennai.
- 2.The District Registrar (Administration),
District Registrar Office,
Court Campus,
Cantonment,
Trichy -1.

Copy to

The Sub Registrar,
Thiruverumbur.

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.R. GOVINDARAJ, Advocate (SR-28110[F] dated
24/06/2022)

+1 CC to M/s.P. THIYAGARAJAN, Advocate (SR-28354[F] dated
27/06/2022)

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+1 CC to M/s.SPL.GP (SR-28544[F] dated 28/06/2022)

W.P.(MD).No.10734 of 2012
24.06.2022

TP (CO)

KB (05.07.2022) 4P 7C