



W.P(MD).No.6062 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.6062 of 2013

and

M.P(MD) No.1 of 2013

R.Panner Selvam

... Petitioner

-VS-

1. The Chief Controlling Revenue Authority,
cum Inspector General of Registration,
Door Number – 120,
Santhome High Road,
Chennai – 600 028.

2. The District Registrar,
Madurai North,
T.N.A.U.Nagar,
Rajagambeeram Village,
Y.Othakadai Post,
Madurai – 625 107.

3. T.S.Balasubramanian (Died)

4. Jeyalakshmi

.... Respondents

R-4 is substituted as LR's vide order
of this Court dated 10.11.2022 in
W.M.P(MD) 6279 of 2021 in
W.P(MD) No.6062 of 2013)



W.P(MD).No.6062 of 2013

PRAAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of declaration, declaring that the respondents 1 and 2 have no authority or jurisdiction to decide question of title under Section 83 or any other provision of the Registration Act, 1908 regarding the properties of the petitioner measuring 2 Acres 28 Cents (0.92.5 Hectares) in Survey No.3/1 and 2 Acres 96 Cents (1.20.0 Hectares) in Survey No.3/2 totalling 5 Acres 24 Cents (2.12.5 Hectares) in Ramankulam Village, Madurai South Taluk, Madurai District.

For Petitioner : Mr.J.Barathan
For R-1 & R-2 : Mrs.S.Jeyapriya
Government Advocate
For R3 & R-4 : Mr.T.Poovalingam

ORDER

The present Writ Petition has been filed seeking a Writ of Declaration, declaring that the respondents 1 and 2 have no authority or jurisdiction to decide question of title under Section 83 of the Registration Act or any other provision of the Registration Act, 1908, relating to certain items of the properties in Ramankulam Village, Madurai South Taluk, Madurai District.

2. According to the learned Counsel for the petitioner, the property



W.P(MD).No.6062 of 2013

was originally owned by one K.Subbaiah Konar, who had executed a registered sale deed in favour of one R.Kandasamy Thevar, on 31.10.1968. The said R.Kandasamy Thevar had, in turn, executed a registered sale deed in favour of Sivamuruga Nadar, on 11.07.1969. Thereafter, the legal heirs of the Sivamuruga Nadar had executed a registered sale deed in favour of the writ petitioner, on 29.04.1982. Based upon the said sale deeds, the revenue records have been mutated in favour of the writ petitioner from the year 1987 onwards and he is in possession of the said properties.

3. According to the learned Counsel for the petitioner, the third respondent herein claims title to the property on the basis of the Court auction sale, dated 11.02.1963. According to the third respondent, they have taken delivery of the property. The learned Counsel for the petitioner contended that, the third respondent's brother, viz., Srinivasa Iyar claims to be the auction purchaser. He had executed a Will in favour of the third respondent herein, on 20.08.1969. The said Sriniva Iyar had passed away on 23.02.1998. Hence, according to the third respondent, the petitioner does not have any title or possession over the property and they have fraudulently executed sale deeds, dated 31.10.1968, 11.07.1969 and 29.04.1982.



W.P(MD).No.6062 of 2013

WEB COPY

4. According to the learned counsel for the petitioner, the third respondent had approached the second respondent herein by way of an application, dated 13.02.2013 for initiating proceedings for cancellation of forged documents. Based upon the said complaint, the second respondent has issued summons to the writ petitioner on 18.02.2013. This is being treated as a cause of action and the present writ petition has been filed.

5. According to the learned Counsel for the petitioner, a reading of the complaint clearly indicates that there is serious title dispute between the petitioner and the third respondent herein. Even as per the amended Rules of the Registration Act, the Registering Authorities will not have any power whatsoever to decide the question of title. Hence, the respondents authorities do not have any jurisdiction whatsoever to conduct an enquiry into the title of the writ petitioner or the third respondent herein. That apart, in the notice, it has been mentioned that they are going to invoke provision of Section 83 of the Registration Act.



W.P(MD).No.6062 of 2013

WEB COPY

6. The learned Counsel for the petitioner submits that unless finding has been arrived at with regard to the fraudulent act and forged document, either an enquiry as contemplated under the Act or the prosecution under Section 83 of the Registration Act is not illegally sustainable. Hence, according to the writ petitioner, he has sought for a declaration that the authorities have no jurisdiction to question the title under Section 83 of the Act or any other provision.

7. Per contra, the learned Counsel for the fourth respondent had contended that the petitioner had presumed that the authorities are going to decide about the title and they are going to initiate proceedings under Section 83 of the Registration Act.

8. The learned Government Advocate appearing for the official respondents also pointed out that as per Section 83 of the Act, the summon has been mentioned only to the effect that in case of non appearance of the writ petitioner, such Section would be invoked.



W.P(MD).No.6062 of 2013

WEB COPY

9. I have carefully considered the submissions made on either side.

10. The main contention of the writ petitioner is that the complaint lodged by the third respondent herein, on 13.02.2013 discloses a serious title dispute. The petitioner and the third respondent herein are tracing title through two different sources. A perusal of the complaint will clearly indicate that there is no allegation of any impersonation or creation of any fraudulent document. Hence, the summons issued by the authorities will only end in an enquiry with regard to the question of title. Therefore, the petitioner has sought for declaration.

11. A perusal of the prayer clearly indicates that, the petitioner has not chosen to challenge the summons issued by the second respondent herein. Therefore, it is clear that the petitioner is always ready to appear before the authorities and subject himself to the jurisdiction of the second respondent herein. The only apprehension of the writ petitioner is that the authorities may decide the question of title and invoke Section 83 of the Registration Act. I find that the apprehension of the writ petitioner is unfounded. It is settled position of law that the authorities under the Registration Act, have



W.P(MD).No.6062 of 2013

no jurisdiction whatsoever to decide about the question of title between the petitioner and the third respondent herein, even after the amendment of the Registration Act and the Rules thereunder. That apart, Section 83 of the Registration Act cannot be invoked directly. Unless an enquiry culminates in a finding that fraudulent documents have been registered or some forgery has been committed by the writ petitioner as contemplated under Sections 81 and 82 of the Registration Act, the question of invoking Section 83 of the Act will not arise.

12. In view of the above said facts, this Writ Petition stands disposed of with the above said clarification. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

24.11.2022

Index : Yes / No
Internet : Yes / No
ebsi



W.P(MD).No.6062 of 2013

WEB COPY

To

1. The Chief Controlling Revenue Authority,
cum Inspector General of Registration,
Door Number – 120,
Santhome High Road,
Chennai – 600 028.
2. The District Registrar,
Madurai North,
T.N.A.U.Nagar,
Rajagambeeram Village,
Y.Othakadai Post,
Madurai – 625 107.



WEB COPY



W.P(MD).No.6062 of 2013

R.VIJAYAKUMAR,J.

ebsi

W.P.(MD)No.6062 of 2013

24.11.2022



WEB COPY



W.P(MD).No.6062 of 2013