



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1615 of 2022

and

W.M.P(MD)Nos.1403 and 1405 of 2022

1.Karuthaveeran

2.Sakkanan

...Petitioners

Vs.

1.The District Registrar, (Administration),
Having Office at 171, Palace Road,
Madurai South, Madurai,
Madurai District.

2.The Sub Registrar,
Peraiyur Sub Registrar Office,
Peraiyur Taluk,
Madurai District.

3.Palraj

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned Notice bearing Na.Ka.No.3860/A2/2021, dated 28.12.2021, issued by the first respondent pending civil suit in O.S.No.36/2021, on the file of the District Munsif cum Judicial Magistrate, Peraiyur and quash the same.

For Petitioners : Mr.M.Gnanagurunathan

For R1 and R2 : Mr.S.Kameswaran
Government Advocate

ORDER

I am not impressed with the nature of the relief sought in the present Writ Petition.

2.The Writ Petition has been filed in the nature of Certiorari, seeking a direction against the impugned notification, dated
<https://hcservices.ecourts.gov.in/hcservices/>



28.12.2021, issued by the first respondent/the District Registrar (Administration) Madurai.

3.The petitioners are the eighth and ninth defendants in a pending suit in O.S.No.36/2021, which is now pending before the District Munsif cum Judicial Magistrate at Peraiyur. The third respondent herein is the eighth plaintiff in the said suit. The relief sought in the said suit was to seek a restraint against the defendants therein from interfering with possession and also for a declaration that a particular sale deed registered as document No.4316/2020, dated 22.12.2020 in the Office of the second respondent/Sub Registrar, Peraiyur, is null and void and that, pursuant to such document, the defendants therein should not cause any encumbrance of the property and for a further declaration that the said sale deed is non-est in the eye of law and for consequential reliefs.

Parallellly, the third respondent herein appears to have given a complaint before the first respondent on the ground that the document which is also the subject matter of the suit, is a result of a fraud committed and therefore, seeking intervention to cancel the document. The first respondent had issued notice to the petitioner herein, dated 28.12.2021, calling upon the petitioners to appear for enquiry.

4.The Writ Petition has been filed questioning such notice.

5.The learned Counsel for the petitioner pointed out that the suit had also been filed seeking to set aside the particular document/sale deed and parallellly, an enquiry by the first respondent to cancel the sale deed, would not be maintainable and that the first respondent does not have jurisdiction to enquire into it. It had been stated that since suit had been filed, the parties should be advised to go before the Civil Court and agitate all of the issues there and a parallel enquiry before the first respondent is not advisable.

6.However, the very same facts can be informed to the first respondent by the petitioners herein. It is only a notice inviting the petitioners to appear for an enquiry. The choice, is of course, with the petitioners whether to appear for the enquiry. It is only advisable to appear and point out all the facts to their knowledge and if according to them, the first respondent does not have jurisdiction to enquire into the issue, put it in writing and inform the first respondent to give an answer on jurisdiction.

7.The Writ Court cannot interfere with the notice calling upon the petitioner to appear for an enquiry. The jurisdiction is vested only with the first respondent to pass necessary orders pursuant to any enquiry conducted and during the course of such enquiry, issue



of jurisdiction will also have to be answered by the first respondent.

8.The Writ Petition is premature and the same is dismissed. No costs. In view of the nature of the order passed, I am not issuing notice to the third respondent. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Registrar, (Administration),
Having Office at 171, Palace Road,
Madurai South, Madurai,
Madurai District.

2.The Sub Registrar,
Peraiyur Sub Registrar Office,
Peraiyur Taluk,
Madurai District.

+1 CC to M/s.SPL.GP (SR-3331[F] dated 01/02/2022)

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-3189[F] dated 31/01/2022)

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31.01.2022

RK(11/02/2022) 3P 5C