WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3574 of 2021

M.Kannappan (Died)
K.Alamelu. ... Petitioner
(Petitioner is substituted vide order dated 31.03.2022 in W.M.P.(MD)No.3265 of 2022 in W.P.(MD)No.3574 of 2021)

Vs.

1.The Inspector General of Registrar,
Inspector General of Registrar Office,
Chennai – 600 028.

2.The District Registrar,
Thanjavur District,
Thanjavur.

3.The Sub Registrar,
Kumbakonam Taluk,
Thanjavur District,
Thanjavur.

4.M.Saminathan

5.S.Santhi

6.V.Anjammal

7.P.Ramesh ... Respondents

https://www.mhc.tn.gov.in/judis

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent herein to conduct and complete the enquiry as per the Section 83 of registration act and pass orders within the time stipulated on the petitioner's complaint dated 28/12/2020 regarding the fraudulent registration of Document No.4384/2018 dated 03.09.2018 in the respect of property comprised in Survey No.1396 to an extent of 9862 sq.ft situated at block-30, 7th ward, Sarvamanya street, Melacuavery post, Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr.K.S.Duraipandian

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1 to R3.
Mr.B.Jameel Arasu for R4, R5 & R7.
No appearance for R6.

ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the respondents 4, 5 and 7. Though the sixth respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2.The petition mentioned property admittedly belonged to one Munisamy Padaiyachi. He was blessed with two sons and one daughter namely, Kannappan, Saminathan and Anjammal. The fifth respondent/Santhi is the wife

https://www.mhc.tn.gov.in/judis

WEB COPY

of the fourth respondent. The fourth respondent claimed that the petition mentioned property has been allotted to him in an oral partition proceeding to execute a settlement deed dated 03.09.2018 in favour of his wife. Based on the same, Santhi had made a partial alienation in favour of the seventh respondent. Claiming that these transactions have taken place by suppressing his 1/3rd share, Kannappan filed O.S.No.196 of 2018 before Sub Court, Kumbakonam claiming partition. Parallelly, he lodged a complaint before the authorities under the Registration Act also. The second respondent held an enquiry and gave *prima facie* finding in favour of the second respondent. Thereafter, she relegated the writ petitioner to move the jurisdictional civil Court primarily on the ground that a registered document cannot be cancelled. In these circumstances, the present writ petition has been filed.

3.When it is beyond dispute that the property in question belonged to Munisamy Padaiyachi. After his demise, it would devolve in equal share on all his three children. If according to the fourth respondent, there was an oral partition and that Kannappan, the original writ petitioner was satisfied with only 800 sq. ft., then the burden lies on him to show that such an oral partition had taken place. It is not known as to how the revenue records could not have been mutated exclusively in the name of the fourth respondent by excluding the

https://www.mhc.tn.gov.in/judis

WEB COPY

name of Kannappan and Anjammal without getting their express consent. Therefore, the finding of the second respondent that the registering authority had not carried out his duties properly is well founded. However, the second respondent had not taken the matter to its logical conclusion. It is also seen that even though notice was issued to the fourth respondent as well as fifth respondent, they had sent some petitions through registered post and they do not appear to have been considered by the second respondent. In these circumstances, interest of justice requires that the complaint regarding fraudulent registration deserves to be considered fully. The Inspector General of Registration has issued quite a few circulars regarding the manner in which such enquiry should be conducted. One of the primary aspects to be gone into is whether fake documents were produced. The learned counsel for the petitioner would allege that the patta produced by the fourth respondent is fake.

4.In the meanwhile the original writ petitioner has passed away and he is substituted by his wife Alamelu. Alamelu is permitted to file a fresh petition before the second respondent. The second respondent is directed to hold an enquiry in this regard. Final order will be passed after putting all the private respondents on notice. Since a partition suit had already been filed, the learned Sub Judge, Kumbakonam is directed to dispose of O.S.No.196 of 2018 on

https://www.mhc.tn.gov.in/judis

WEB COPY

merits and in accordance with the law within a period of eight months from the date of receipt of a copy of this order.

5.With this direction to the second respondent as well as the learned trial Judge, the writ petition is disposed of. No costs.

05.08.2022

Index : Yes / No
Internet : Yes/ No
ias

To:-

1.The Inspector General of Registrar,
Inspector General of Registrar Office,
Chennai – 600 028.

2.The District Registrar,
Thanjavur District,
Thanjavur.

3.The Sub Registrar,
Kumbakonam Taluk,
Thanjavur District,
Thanjavur.

Copy to:

The Sub Court,
Kumbakonam.

https://www.mhc.tn.gov.in/judis

WEB COPY

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.3574 of 2021

05.08.2022