



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.4173 of 2022

W.M.P. (MD) .No.3581 of 2022

WEB COPY

Karthikeyan

.. Petitioner

Vs

1.The District Registrar,
(Audit),
Virudhunagar.

2.The Sub-Registrar,
Kariapatti,
Virudhunagar District.

3.R.Oyyanan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent, dated 02.03.2022, in proceedings Na.Ka.No.28/2022, quash the same, as the same is arbitrary, ultravires, in excess of jurisdiction.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondents : Mr.S.Shanmugavel for R1 and R2
Additional Government Pleader

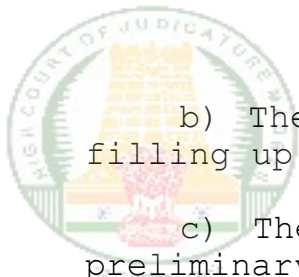
ORDER

This writ petition has been filed challenging the impugned communication received by the petitioner from the first respondent calling the petitioner for enquiry on 11.03.2022, with regard to the complaint lodged by the third respondent against the petitioner for cancellation of the sale deed, dated 11.08.2021, registered as document No.2545/2021, standing in the name of the petitioner.

2.Heard Mr.R.G.Shankar Ganesh, learned counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 and 2.

3.The petitioner has challenged the impugned communication before participating the enquiry proceedings, raising the following grounds.

a) The impugned notice issued by the first respondent is without jurisdiction and is contrary to law.



b) The first respondent has issued a stereotype notice merely filling up blanks and has called the petitioner for enquiry.

c) The first respondent grossly erred in not conducting any preliminary enquiry with the third respondent prior to issuance of impugned notice.

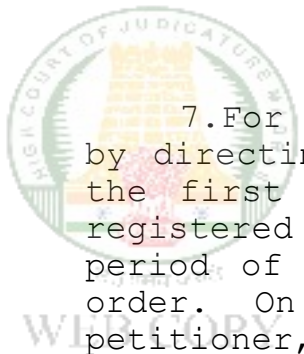
d) The first respondent failed to notice that any statement given by the petitioner pending disposal of the suit will have an adverse inference in the civil proceedings.

e) The first respondent failed to observe that the third respondent approaching the first respondent will amount to forum shopping as he has already filed a civil suit and has sought for the same relief of cancellation of the sale deed executed in favour of the petitioner.

4. Admittedly, the impugned communication is only a notice received by the petitioner, calling him for enquiry in the complaint given by the third respondent, seeking for cancellation of the sale deed standing in the name of the petitioner, dated 11.08.2021, registered as document No.2545/2021. Even before participating in the enquiry proceedings, the petitioner has filed this writ petition, prematurely. The first respondent is having the authority under law to cancel the document which has been fraudulently registered.

5. The grounds raised by the petitioner will have to be considered by the first respondent in the final orders to be passed by the first respondent on the third respondent's complaint, seeking for cancellation of the sale deed standing in the name of the petitioner, dated 11.08.2021, registered as document No.2545/2021. Since the petitioner has filed this writ petition, prematurely, before passing of the final orders, the only relief that can be granted to the petitioner is to direct the first respondent to consider all the grounds raised by the petitioner in this writ petition on merits and in accordance with law, after affording a fair hearing to the petitioner, including granting him the right of personal hearing and also directing the first respondent to furnish copies of the reports/orders relied upon by the first respondent for the purpose of passing the final orders.

6. Though the petitioner may have a good case on merits, the same will have to be considered only by the first respondent and not in this writ petition as the same has been filed, prematurely, even before passing of any final order by the first respondent, pursuant to the complaint given by the third respondent, seeking for cancellation of the petitioner's sale deed, dated 11.08.2021, registered as document No.2545/2021.



7.For the foregoing reasons, this writ petition is disposed of by directing the petitioner to submit a written explanation before the first respondent as to why the sale deed, dated 11.08.2021, registered as document No.2545/2021, cannot be cancelled, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said written explanation from the petitioner, the first respondent shall pass final orders on merits and in accordance with law on the complaint given by the third respondent, after affording a fair hearing to the petitioner and the third respondent and also by granting personal hearing to the petitioner and the third respondent and also by furnishing all the documents/orders relied upon by the first respondent, based on which, the first respondent is going to pass final orders, to the petitioner as well as the third respondent, within a period of three months, thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

10/03/2022

Sub Assistant Registrar(CS)

TM

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,
(Audit),
Virudhunagar.

2.The Sub-Registrar,
Kariapatti, Virudhunagar District.

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-11069[F] dated 10/03/2022)

+1 CC to M/s.SPL GP (SR-11198[F] dated 10/03/2022)

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