



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.8175 of 2022

and

W.M.P. (MD)No.6096 of 2022

WEB COPY

1.P.K.Mercy Bai

2.A.Kumaradhas

... Petitioners

vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram, Chennai - 600 028.

2.The Deputy Inspector General of Registration,
Integrated Complex of Registration Department,
St.Marks Street, Near Sankaran Colony,
Behind John Higher Secondary School,
Tirunelveli District - 627 002.

3.The District Registrar (Administration),
Integrated Complex of Registration Department,
24/169, Vettumani, Marthandam,
Kanyakumari District - 629 165.

4.The Sub Registrar Joint II,
Joint II Sub Registrar Office,
Integrated Complex of Registration Department,
24/169, Vettumani, Marthandam,
Kanyakumari District-629 165.

5.A.Gnanadhas

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to impugned order passed by the third respondent District Registrar in No.3793/Aa/2019, dated 15.02.2022 quash the same as illegal and void.

For Petitioner :Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers

For R1 to R4 :Mr.J.John Rajadurai
Government Advocate



O R D E R

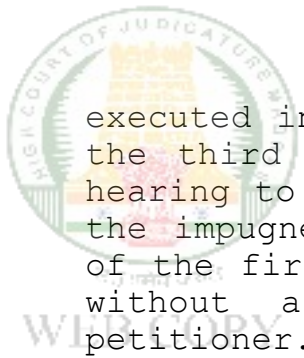
This Writ Petition has been filed challenging the impugned order, dated 15.02.2022, under which, a categorical finding has been given by the third respondent that the settlement deed, dated 30.03.2002 registered as Doc.No.622/2002 standing in the name of the first petitioner is a fraudulent document. Based on the complaint given by the fifth respondent, who is the second petitioner's brother, the impugned order came to be passed. The second petitioner has executed the aforementioned settlement deed in favour of his wife, who is the first petitioner.

2.The petitioners have challenged the impugned order on the ground of violation of principles of natural justice and also on the ground that the third respondent does not have the jurisdiction to declare that the settlement deed executed in favour of the first petitioner by the second petitioner is a fraudulent document.

3.The learned Senior Counsel for the petitioners drew the attention of this Court to the impugned order and would submit that the first petitioner, who is the owner of the property having got the same by virtue of a settlement deed in the year 2002 by a registered document, was not heard in the impugned proceedings, though the second petitioner had submitted an explanation with regard to the complaint lodged by the fifth respondent. He would also submit that in the said explanation, a categorical stand has been taken by the second petitioner that the property is owned by his wife, namely, the first petitioner, she having got the same under a settlement deed executed by him in the year 2002.

4.According to them, despite the said categorical assertion, the third respondent, without providing any opportunity of hearing to the first petitioner, has passed the impugned order, under which, it has been declared that the settlement deed executed by the second petitioner in favour of the first petitioner is a fraudulent document. Under the impugned order, the third respondent has also declared that apart from the settlement deed standing in the name of the first petitioner, the other connected documents have also been declared as fraudulent.

5.Admittedly, as seen from the impugned order, no opportunity of hearing has been granted to the first petitioner in whose favour the settlement deed, dated 30.03.2002 stands, registered as Doc.No.622/2002. After the lapse of almost of twenty years, it has been declared under the impugned order by the third respondent that it is a fraudulent document, that too without affording an opportunity of hearing to the first petitioner. A categorical stand has also been taken in the second petitioner's explanation submitted to the official respondents that the subject property is owned by the first petitioner, who has got the same under a settlement deed



executed in her favour by him in the year 2002. Despite the same, the third respondent has chosen not to afford any opportunity of hearing to the first petitioner in the impugned proceedings. Under the impugned proceedings, the settlement deed standing in the name of the first petitioner has been declared as a fraudulent document without affording any opportunity of hearing to the first petitioner.

6.For the foregoing reasons, this Court is of the considered view that principles of natural justice has been violated. Apart from the ground of violation of principles of natural justice raised by the petitioners, they have also raised a ground that without jurisdiction, the third respondent has passed the impugned order. According to them, declaration of a particular document as a fraudulent document cannot be passed by the third respondent and it can be passed only by a competent civil Court.

7.The contentions raised by the petitioners in this Writ Petition has not been considered in the impugned order passed by the third respondent. Therefore, being a non speaking order as regards the contentions raised by the petitioners in this Writ Petition and on the ground that the impugned order has been passed by violating the principles of natural justice, this Court is of the considered view that the impugned order, dated 15.02.2022 passed by the third respondent has to be necessarily quashed and the matter has to be remanded back to the third respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioners as well as the fifth respondent and any other necessary party whom the third respondent deems fit to enquire.

8.In the result, the impugned order, dated 15.02.2022 passed by the third respondent is hereby quashed and the matter is remanded back to the third respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioners as well as the fifth respondent and any other necessary party whom the third respondent deems fit to enquire and pass final orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

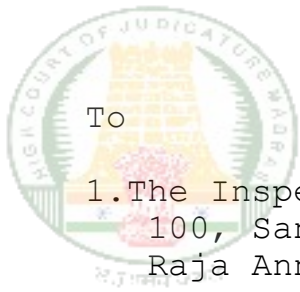
Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)



To

1.The Inspector General of Registration,
100, Santhome High Road,
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Joint II Sub Registrar Office,
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Kanyakumari District-629 165.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-21595[F] dated 27/04/2022)

+1 CC to M/s.SPL.GP (SR-22371[F] dated 28/04/2022)

W.P. (MD)No.8175 of 2022
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RK(13/05/2022) 4P 7C