

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 01.09.2022****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.15215 of 2022**

M.Prema Ponmani

... Petitioner

Vs.

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

2. The District Registrar,
Periyakulam, Theni District.

3. The Sub-Registrar,
Theni Sub-Registrar Office,
Theni District.

4. T.Rathna

5. K.Suguna

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent herein to conduct and complete the enquiry as per Section 83 of the Registration Act and pass orders within the time stipulated on the petitioner's complaint dated 16.03.2022 regarding the fraudulent registration in respect of the property comprised in Survey No.1477/7B to the extent of 1.01.00 hectares situated at Veerapandi Village, Theni District.

For Petitioner : Mr.K.S.Duraipandian

For R-1 to R-3 : Mr.K.S.Selva Ganesan,
Additional Government Pleader.

For R-4 & R-5 : Mr.H.Lakshmi Shankar

* * *

ORDER

Heard the leaned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondents.

2. The writ petitioner is the daughter of the fourth respondent. The fourth respondent on the strength of a settlement deed had conveyed the property in question to the fifth respondent. According to the petitioner, she is also having share in the same. The petitioner therefore wants respondents 4 and 5 to be prosecuted under Section 83 of the Registration Act. As rightly pointed out by the learned counsel appearing for the private respondents, the issue on hand is no

longer *res integra*. In the decision reported in ***AIR 1924 Patna 754 (Mt. Gobindia V. King-Emperor)***, it has been held as follows:-

“ The proceeding or enquiry referred to in the Section must be a proceeding or enquiry as prescribed by the Act. The Act nowhere prescribes any enquiry by the Registration Officer as regards the truth or falsity of any recital in a deed. All that the Registering Officer is required to enquire into is as to whether the document presented before him for registration was or was not executed by the person by whom it purports to have been executed. The enquiries prescribed are those provided for in Section 34 and Section 35 of the Registration Act, and I am clearly of opinion that the Sub-Registrar had no jurisdiction to enquire as regards the truth or falsity of any recital in the deed and the enquiry as contemplated by Section 82, cl.(a) does not refer to an enquiry as regards the truth or falsity of any recital in the deed. In this view of the case I agree with the learned Sessions Judge and hold that no offence under Section 82 of the Registration Act can be

brought home to the accused in the present case and the order of commitment must be quashed under Section 215 of the Criminal Procedure Code.”

3. Therefore, the question of prosecuting the fifth respondent under Section 83 of the Act will not at all arise. However, it is open to the petitioner herein to move the second respondent by invoking the recent circulars issued by the second respondent. As and when any such a petition is filed, the second respondent will enquire into the matter and pass final order on merits and in accordance with law within a period of twelve weeks from the date of such filing. The second respondent will have necessarily to put the fifth respondent on notice before passing final order.

4. I make it clear that I have not gone into the merits of the matter. It is open to the second respondent to pass final order one way or the other.

5. This writ petition stands disposed of accordingly.

No costs.

01.09.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

1. The Inspector General of Registration,
Inspector General of Registrar Office,
Chennai – 600 028.
2. The District Registrar,
Periyakulam, Theni District.
3. The Sub-Registrar,
Theni Sub-Registrar Office,
Theni District.

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.15215 of 2022

01.09.2022

