



W.P.(MD).No.9353 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.9353 of 2014

in

M.P(MD) No.1 of 2014

Allwin

... Petitioner

-VS-

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai.

2. The District Registrar,
Registrar Office,
Palayamkottai,
Tirunelveli District.

3. The Sub-Registrar,
Thisayanvilai,
Radhapuram Taluk,
Tirunelveli District.

4. Amalarani

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the



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impugned order passed by the second respondent herein vide his proceedings in Na.Ka.No.5574/அ2/2013, dated 28.05.2014 and quash the same as illegal.

For Petitioner : Mr.D.Nallathambi
For R1 to R3 : Mr.K.S.Selvaganesan
Additional Government Pleader
For R4 : Mr.V.Kannan

ORDER

The present Writ Petition has been filed challenging the order passed by the second respondent herein, under which, a Settlement Deed, dated 06.12.2005, registered as Document No.1831 of 2005 has been declared to be forged document and a direction was issued for initiation of criminal proceedings.

2. According to the learned counsel for the petitioner, the petitioner's grandfather namely, one Rajendran @ Thangadurai has executed a registered Settlement Deed in his favour on 06.12.2005, before the Sub-Registrar Office, Thisayanvilai, in Document No.1831 of 2005. Thereafter, in the year 2006, the said Rajendran @ Thangadurai had filed a suit in



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O.S.No.174 of 2006, on the file of the Additional District Munsif Court, Nanguneri for the relief of declaration that the said settlement deed is null and void and also for declaration of title and consequential permanent injunction and the said suit came to be dismissed, on 25.02.2008. Thereafter, the said Rajendran @ Thangadurai had filed an Appeal Suit in A.S.No.43 of 2008, on the file of the Sub Court, Valliyoor. The learned Sub-ordinate Judge was pleased to confirm the judgment and dismissed the Appeal Suit, on 28.04.2011. As against the same, the plaintiff/ Rajendran @ Thangadurai had filed the Second Appeal in S.A(MD) No. 957 of 2011, before this Court and the same is pending.

3. While the Second Appeal is pending, the fourth respondent herein who claims to be the purchaser from the said Rajendran @ Thangadurai, had lodged a complaint before the second respondent herein, contending that the settlement deed in Document No.1831 of 2005 is a forged document and the same has to be de-registered and proper proceedings should be initiated as against the present writ petitioner. The second respondent herein by his impugned order, dated 28.05.2014, has passed the order to the effect



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that the Settlement Deed in Document No.1831 of 2005 is a forged document and he has also directed investigation to be conducted by the police and he has directed for de-registration of the said document. The said order is under challenge before this Court.

4. The learned counsel for the petitioner has contended that the civil Court had refused to entertain the request of Rajendran @ Thangadurai for declaring the said Settlement Deed, as null and void. Thereafter, the alleged purchaser from the said Rajendran @ Thangadurai cannot approach the second respondent herein for declaring the same document as null and void. Hence, he contended that the second respondent has no jurisdiction whatsoever to entertain the complaint, when the Second Appeal is pending before this Court from the year 2011 onwards. Hence, he prayed for allowing the Writ Petition.

5. Per contra, the learned counsel appearing for the private respondent, namely, the fourth respondent herein had contended that the said Rajendran @ Thangadurai had executed a registered sale deed in his



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favour with regard to the portion of the property in the year 2005 itself.

Thereafter, he has chosen to execute a settlement deed in favour of the writ petitioner, on 06.12.2005. Hence, the settlement deed has been executed fraudulently in favour of the writ petitioner. He further contended that Rajendran @ Thangadurai has appeared before the second respondent and has specifically contended that he has never executed any such settlement deed and such a document has been forged. Only on the basis of the forged document, the writ petitioner claims the title. He further contended that the document was referred to expert opinion and it was found that the thumb impressions of Rajendran @ Thangadurai in the document do not tally with the admitted thumb impressions. Only based upon said expert opinion and the sale deed in favour of the fourth respondent herein, the order impugned in the Writ Petition has been passed. Therefore, he prayed to sustain the impugned order.

6. The learned Additional Government Pleader appearing for the official respondents had contended that the pendency of the Second Appeal was not brought to the notice of the second respondent herein. That apart,



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the fourth respondent herein was not a party to the civil proceedings and hence, without having knowledge about the pendency of the Second Appeal before this Court, the complaint lodged by the fourth respondent has been entertained by the second respondent and the present order has been passed. That apart, the document has been referred to Government Forensic Expert. Only based upon the report, the present order has been passed. Hence, he requested the Court to sustain the order passed by the second respondent herein.

7. Pursuant to the directions issued by this Court, the second respondent who passed the order appeared in person and he pleaded that he was not aware of the pendency of the second appeal.

8. I have carefully considered the submissions made by the counsel on either side.

9. The prayer in O.S.No. 174 of 2006 clearly indicates that Rajendran @ Thangadurai had filed a Suit not only for declaration of the Document



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No.1831 of 2005 as null and void, but he has also claimed declaration of title and consequential injunction. The trial Court as well as the first Appellate Court have rejected all the prayers of the said Rajendran @ Thangadurai including the prayer for declaration of title. The fourth respondent is claiming title, only through the said Rajendran @ Thangadurai. Unless the title of Rajendran @ Thangadurai is upheld by this Court in S.A.(MD)No. 957 of 2011, the title of the fourth respondent cannot be decided.

10. Hence, in view of the above said facts, the order impugned in the Writ Petition is set aside. The fourth respondent is granted liberty to get herself impleaded in S.A.(MD)No.957 of 2011. The validity of the gift deed, dated 06.12.2005, in Document No.1831 of 2005 is subject to the result of S.A.(MD)No.957 of 2011.



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11. With the above said observation, this Writ Petition stands allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

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