



W.P.(MD)No.27071 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.27071 of 2022

Sivakumar

.. Petitioner

Vs.

1.The District Collector,
Registration Department,
Pudukkottai.

2.The Sub-Registrar,
Keelanilai Sub-Registration Office,
Thirumayam Taluk,
Pudukkottai District.

3.Sethuramu

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to remove the entries relating to the fraudulent registration in Doc.No.416 of 1993 registered in the 2nd respondent office and initiate the penal prosecution U/s 83 of 1908 of Registration Act as against the 3rd respondent.

For Petitioner : Mr.K.Baalasundaram

For R1 & R2 : Ms.S.Jayapriya

Government Advocate



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ORDER

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This Writ Petition has been filed for issuance of Writ of Mandamus, directing the first respondent to remove the entries relating to the fraudulent registration in Doc.No.416 of 1993 registered in the second respondent office and initiate the penal prosecution under Section 83 of the Registration Act, 1908, as against the third respondent.

2. Heard Mr.K.Baalasundaram, learned counsel for the petitioner and Ms.S.Jayapriya, learned Government Advocate, who takes notice for first and second respondents. Since no adverse order is going to be passed against the third respondent, notice to the third respondent is dispensed with. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The grievance of the petitioner is that the property of the petitioner was fraudulently registered by the third respondent in his favour.

4. The learned counsel for the petitioner submitted that the property in T.S.No.1417, (Old S.F.No.51) to an extent of 14 cents, situated at Agraharam Street, Arimalam Town Panchayat, Keelanilai, which was purchased by his father from one Valeeswara Iyer, by virtue of registered sale deed dated



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16.01.1965, was gifted to his mother, brothers and himself. The petitioner has applied for encumbrance certificate for making some family arrangements.

After obtained the encumbrance certificate, he came to know that the third respondent and his husband has jointly created a fabricated document in the year 1993 in Doc.No.416 of 1993 in respect of the aforesaid property. In this regard, the petitioner sent a representation, dated 16.08.2022 to the first respondent to conduct an enquiry. In pursuance of the same, an enquiry was conducted and all the documents that were relied upon by the petitioner were scrutinized and the matter stood posted for further action. Since further course of action has not been done till date, the petitioner has approached this Court by way of filing this petition.

5. The learned Government Advocate appearing for the first and second respondents, on instructions, submitted that based on the representation submitted by the petitioner enquiry was undertaken and the same shall be completed shortly.

6. Though larger relief is sought for by the petitioner in this writ petition, now the petitioner is constrained to confine his prayer that if a direction is issued to the respondents to consider the representation of the petitioner, dated 16.08.2022.



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7. No prejudice would be caused to the respondents, if the representation of the petitioner dated 16.08.2022 is considered on merits and in accordance with law, after hearing the petitioner as well as the rival claimants, if any.

8. Accordingly, this Court, without expressing any opinion on the merits of the matter, directs the official respondents to consider the representation of the petitioner, dated 16.08.2022 on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, the third respondent and the rival claimants, if any, within a period of sixteen [16] weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

01.12.2022

Index : Yes/No
Internet : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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