



W.P.No.1504 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.1504 of 2023 and

W.M.P.No.1597 of 2023

Stella

.. Petitioner

vs

1. Inspector General of Registration
100, Santhome High Road, Mullima Nagar
Mandavelipakkam, Raja Annamalai Puram
Chennai, Tamil Nadu 600 028.

2. The Sub-Registrar
Triplicane Sub Registrar Office
No.182 Bharati Salai (Pycrofts Road)
Royapettah, Chennai – 600 014.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned communication dated 09.01.2023 issued by the second respondent to the petitioner and quash the same and consequently direct the respondents to grant sufficient time to the petitioner to obtain all the requisite documents in the safe custody of this Hon'ble Court in respect of the property bearing Old No.74 / New No.78, General Patters Road, Chennai – 600 002 (Govind Palace) and produce the same before the respondents.

For Petitioner : Mr.Naveen Kumar Murthy
for Mr.V.P.K.Gowtham

For Respondents : Mr.P.Sathish
Additional Government Pleader



W.P.No.1504 of 2023

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ORDER

The prayer sought for herein is a writ of Certiorarified Mandamus, calling for the records of the impugned communication dated 09.01.2023 issued by the second respondent to the petitioner and quash the same and consequently direct the respondents to grant sufficient time to the petitioner to obtain all the requisite documents in the safe custody of this Court in respect of the property bearing Old No.74 / New No.78, General Patters Road, Chennai – 600 002 (Govind Palace) and produce the same before the respondents.

2. In respect of certain properties in Triplicane village, Chennai, it is the claim of the petitioner that these properties belong to the petitioner, as they inherited the property and in this regard, it is the claim of the petitioner that a will executed in favour of the petitioner's mother has also been probated by the order of this Court. When that being so, noting well that the petitioner and her sister are the owners of the property, some third parties, in order to grab the properties, made several attempts and certain fraudulent documents also, according to the petitioner, seems to have been presented or to be presented before the concerned Registering Authority to exploit the property or to encumber the property in question. Therefore, apprehending the same on behalf of the petitioner, a protest petition



W.P.No.1504 of 2023

has also been filed, alerting the Sub-Registrar concerned not to entertain any such documents to be presented by any third parties without the concurrence of the petitioner or her sister.

3. In order to consider the said representation-cum-petition given by the petitioner before the Registering Authority, the petitioner already moved before this Court in the earlier writ petition in W.P.No.26633 of 2022 dated 30.09.2022.

4. Disposing the said writ petition, the learned Judge of this Court passed the following orders:

“4. Considering the facts and circumstances of this case and having regard to the submissions of the learned counsel, this Court directs the respondents to consider the petitioner's representation dated 22.09.2022 and pass appropriate order on merits and in accordance with law after providing opportunity of hearing to the petitioner as well as any other interested parties within a period of four weeks from the date of receipt of a copy of this order.”

5. Pursuant to the orders passed by this Court, the second respondent wanted to conduct an enquiry with the petitioner and other third parties, if at all they come



W.P.No.1504 of 2023

forward to make any attempt to register any documents pertaining to the property in question and accordingly, the second respondent issued a notice on 09.01.2023 fixing certain time limit to the petitioner to produce the original documents to substantiate the claim of the petitioner about the title and ownership of the property in question. Only at that juncture, the present writ petition has been filed, challenging the said communication issued by the second respondent dated 09.01.2023.

6. The reason for assailing the impugned communication, according to the learned counsel Mr.Naveen Kumar Murthy, appearing for the petitioner is that, already some criminal attempt has been made to dispossess the petitioner from the valuable property and this has been complained to the Police unsuccessfully by the petitioner and therefore, the petitioner was triggered to approach this Court by filing a Criminal Original Petition and in the said Criminal Original Petition as per the direction of this Court, original documents were filed by the petitioner at the time of the earlier case, which are still in the Court and are yet to be returned to the petitioners.

7. When that being the position, the second respondent, without appreciating



W.P.No.1504 of 2023

the factual matrix, has issued this summons dated 09.01.2023 mechanically and directed the petitioner to produce the original documents to complete the enquiry, as directed by this Court within a time frame.

8. In this context, the contention of the learned counsel for the petitioner is that the petitioner can produce certain copies of the documents to substantiate the claim of the petitioner about the ownership and title of the property in question and in this regard, even though directions were given by this Court in the earlier writ petition, to give notice to both sides and to enquire the matter, to the second respondent, it seems that he has not taken any attempt to issue notice to the other parties to produce their documents to substantiate their claim that they are the owner or having the title over the property.

9. Be that as it may. In respect of the present summons issued dated 09.01.2023 is concerned, the petitioner can very well produce the certified copies of the necessary documents to substantiate the claim of the petitioner about her ownership and that too within a reasonable time that may be stipulated by this Court. But, at the same time, similar steps should be taken by the second respondent to ascertain the documents available with the other parties to



W.P.No.1504 of 2023

substantiate their claim. Then only, the petitioner as well as the opposite party would be placed in the same playing field and accordingly, the actual ownership and title over the property can be ascertained and decided for the purpose of accepting the protest petition being made by the petitioner seeking refusal of any documents presented by any third parties other than the petitioner and the sister of the petitioner pertaining to the property in question.

10. Therefore, the learned counsel appearing for the petitioner seeks indulgence of this Court against the impugned communication.

11. However, Mr.P.Sathish, learned Additional Government Pleader appearing for the respondents would submit that, it is only a summon, in which, the second respondent has directed the petitioner to produce the documents which are available with the petitioner in original, so that enquiry can be conducted and completed as per the order dated 30.09.2022 and if at all the petitioner had already deposited the original documents in some Court proceedings, which are not readily available with the petitioner, at least the certified copies of the documents, to that effect, can be produced, for which, reasonable time can be fixed so that enquiry would be completed at the hands of the second respondent.



W.P.No.1504 of 2023

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12. Learned Additional Government Pleader would also submit that, simultaneously, notice also would have been given or would be given to the other parties also to ascertain the documents which are available with them to substantiate their contentions that they are also claiming the ownership or title over the property and then only, a decision would be taken by the second respondent, as directed by this Court by order dated 30.09.2022.

13. I have considered the said rival submissions made by the learned counsel appearing for both the parties and have perused the materials placed before this Court.

14. The limited grievance of the petitioner arising out of the impugned summons dated 09.01.2023 is that, in respect of the original documents, the petitioner shall be permitted to file the certified copies of the documents to substantiate the claim of the petitioner that the petitioner and her sister are the owners and having title over the property. The second grievance is that some reasonable time may be fixed by this Court, within which, the documents shall be produced by the petitioner along with her sister to the second respondent. It is also



W.P.No.1504 of 2023

the grievance of the petitioner that similar treatment should be met by the other parties also, since if they come forward to claim the property in question, they must also be in a position to substantiate their contention by producing necessary documents to the second respondent to his satisfaction.

15. In order to redress these three grievances espoused by Mr.Naveen Kumar Murthy, learned counsel appearing for the petitioner and having regard to the said submissions made by the learned Additional Government Pleader appearing for the respondents, this Court is inclined to dispose of this writ petition with the following orders:

That it is open to the petitioner to respond to the impugned summons dated 09.01.2023 by producing certified copy of the documents pertaining to the land in question, which are available with the petitioner or her sister, within a period of six weeks from the date of receipt of a copy of this order. On receipt of those documents provided by the petitioner, the second respondent shall also enquire the other party i.e., the opposite party of the petitioner to substantiate their contention by producing necessary documents either original or certified



W.P.No.1504 of 2023

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copy and thereupon, after evaluating those documents, the veracity of the protest petition, given by the petitioner, shall be considered and accordingly, the needful action shall be undertaken by the second respondent / Registering Authority within a period of six weeks thereafter.

16. With these direction the writ petition is disposed of. There will be no order as to costs.

20.01.2023

Index: Yes/No

Neutral Citation: Yes/No

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To

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R. SURESH KUMAR, J.

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