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Writ Petition No.27838 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.27838 of 2015

T.Kirupamoorthy

... Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai – 600 004.

2. The District Registrar (Administration),
Murthygal Lane, Chennai (North),
Chennai – 600 001.

3. The Sub-Registrar,
Konnur, Chennai.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to pay a sum of Rs.15 Crores towards damages and compensation to the petitioner.

For Petitioner : Mr.V.Sairam

For Respondents : Mr.D.Ravichander
Special Government Pleader [R1
to R3]



ORDER

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2. The petitioner states that he purchased the property from Smt.Selvarani vide sale deed dated 02.09.2011. The father of Smt.Selvarani, Mr.J.D.Baskaran purchased the said property from Tamil Nadu Housing Board through sale deed dated 28.08.1985. The said J.D.Baskaran executed a Will in favour of his daughter viz., Smt.Selvarani. Based on the Will executed by Mr.J.D.Baskaran in favour of his daughter Smt.Selvarani, the petitioner entered into an agreement and accordingly purchased the property vide sale deed dated 02.09.2011. At the time of purchase of the property, the petitioner was unaware of the fact that the Will was cancelled by the said J.D.Baskaran

3. The learned counsel for the petitioner mainly contended that there was no entry made in the register of the office of the Sub-Registrar and therefore, he was unaware of the fact regarding the cancellation of the Will executed by J.D.Baskaran in favour of his daughter Smt.Selvarani. If at all necessary entries were made in the register, the



petitioner would not have purchased the property by investing his hard earned money. Thus, the petitioner sustained huge monetary loss on account of lapse committed by the Registration Department and constrained to move the present writ petition seeking compensation.

4. The learned Special Government Pleader appearing on behalf of the respondents raised an objection by stating that the Will registered will not be entered in Book No – I in the office of the Sub-Registrar. The Will register will be in Book No – III as per Appendix – I to Registration Rules. Therefore, it is for the parties to ascertain the sanctity of the Will and also to ensure that the Will was in force. In the present case, there is no entry in Book No – I and therefore, the petitioner purchased the property from the said Smt.Selvarani. Thus, the parties cannot be blamed for the misrepresentation committed by the vendor of the petitioner.

5. That apart, the Authorities enjoys an immunity under Section 86 of the Registration Act, 1908 in respect of the act done by them on good faith. In the present case, there was no intentional lapse or otherwise on the part of the Sub-Registrar, since the Will registered need not be entered in Book No – I. Thus, the writ petition is to be rejected.

6. This Court is of the considered opinion that, presuming that



there is a lapse on the part of the Sub-Registrar, such administrative lapses committed unintentionally would not provide a cause for seeking compensation in a writ proceedings under Article 226 of the Constitution of India. As rightly pointed out, the lawful actions of the public Authority under the Registration Act is immune and therefore, the intention if any or motive if established then alone the officials are to be prosecuted but not otherwise. In the present case, except lapse there is no allegation and malafide or motive on the part of the Registering Authority. Thus, the writ filed seeking compensation is not entertainable. Even if there is lapse, negligence or dereliction of duty on the part of the Registering Authority, the competent disciplinary authority may initiate disciplinary proceedings under the service rules. However, the said lapse or dereliction would not provide cause for seeking compensation before the High Court in a writ proceedings.

7. No doubt, the vendor of the petitioner had misrepresented or suppressed the fact regarding the cancellation of the Will. It is possible that the vendor herself may not be aware of the cancellation, since the executor of the Will is empowered to cancel even without informing to the beneficiary. Therefore these facts are to be adjudicated with reference to



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the documents before the competent civil court of law. Contrarily, the High Court cannot form an opinion with reference to the situation that arouse for cancelling the Will executed by J.D.Baskaran in favour of his daughter Smt.Selvarani.

8. The scope of the Will is of such that the executor is empowered to rectify or revoke the Will at any point of time and execution or cancellation need not be disclosed to any person. This being the factum, if at all the vendor of the petitioner has misrepresented or committed any fraud, the petitioner has to approach the competent Civil Court of law seeking appropriate remedy. However, the Registering Authority cannot be held responsible for such misrepresentation, fraud or otherwise committed at the instance of the parties, who are presenting the document for registration or otherwise.

Accordingly, this writ petition stands dismissed. No costs.

06.06.2023

Index : Yes

Speaking order: Yes

Neutral Citation: Yes/No

mp



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S.M.SUBRAMANIAM, J.

mp

To

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