



W.P.(MD) No.7565 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

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Sahabudeen

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhom High Road,
Pattinampakkam,
Chennai-600 028.

2.The Deputy Inspector General of Registration,
Madurai Region,
Integrated Registration Offices buildings,
Y.Othakadai,
Madurai.

3.The District Registrar (Administration),
Ramanathapuram District,
Vandikara Street,
Ramanathapuram.

4.Suriya Prabha
(Former Sub Registrar of Velipattinam Officer),
Presently working as
The Sub Registrar,
Thirupathoor Sub Registrar Office,
Sivagangai District.

... Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to take Departmental Disciplinary proceedings as against the fourth respondent for the irregularities committed by her, by considering the representation of the petitioner dated 20.05.2020 within a time frame as fixed by this Court.

For Petitioner : Mr.R.Gowrishankar

For R1 to R3 : Mr.C.Satheesh
Government Advocate

For R4 : Mr.C.Ganesh Kumar

ORDER

The petitioner herein through his power agent has filed a writ petition seeking for a Writ of Mandamus directing the respondents 1 to 3 to take Departmental Disciplinary proceedings against the fourth respondent, namely, Suriya Prabha (Former Sub Registrar of Velipattinam Office), now the Sub Registrar, Thirupathoor Sub Registrar Office, for the irregularities committed by her, by considering the representation of the petitioner dated 20.05.2020 within a time frame as fixed by this Court.



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2. The facts in brief are as follows:-

The deponent, who is the power agent of the petitioner would submit that he has been appointed vide registered power of attorney deed dated 27.08.2016. It is his case that the petitioner's father, namely Mohamed Kani owned the property in Survey No.45/13A and S.No.42/3B1 to an extent of 0.02.5 Hec and 0.3.50 Hec in Perunkulam Village, Ramanathapuram District. This being the case, one Meera Hussain, S/o.Late Mohamed Ismail, belonging to petitioner's village had fabricated a false power of attorney deed dated 07.04.2016 as if three brothers of the petitioner, namely Khader Ibrahim, Umar Ali and Musthaheem are the owners of the property and that they had executed the power of attorney in his favour. Thereafter, the said Meera Hussain has fabricated the legal heir certificate of the petitioner's mother, namely, Shabardan Ammal dated 05.07.2015 stating that the said three brothers and his deceased parent alone are legal heirs of his mother. The petitioner would submit that in reply to an RTI enquiry, the Deputy Thasildar, Ramnad had informed him that this legal heir certificate was not obtained through his Office. Thereafter, the said Meera Hussain had



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created fabricated life certificates of the petitioner's three brothers dated 18.05.2016 as if the same was issued at Malaysia. Using this fabricated power of attorney, legal heir certificate and life certificates, the said Meera Hussain has collusively executed forged registered sale deeds in respect of the petitioner's joint property measuring to an extent of 3.5 cents and 2.67 cents in favour of Syed Kanim and Sakila Parveen (both of whom were not parties to the writ proceedings).

(ii) It is the contention of the petitioner that the Sub Registrar has not sought for the originals of the same nor questioned as to how the executants were able to obtain the life certificates on the same date that for the deed executed dated 18.05.2016. By reason of these events, the petitioner had lodged a criminal complaint dated 28.08.2016, based upon which, the District Crime Branch, Ramnad, has registered a criminal case against said Meera Hussain. The petitioner has filed CrI.O.P(MD) No. 14469 of 2017 seeking for a direction to the concerned police to include the fourth respondent Sub Registrar and others in the case. The police have also filed a final report before the Judicial Magistrate Court No.II,



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Ramnad. This Court disposed of CrI.O.P(MD) No.14469 of 2017 by stating that the petitioner can state the persons who had involved in the crime during the course of evidence and thereafter, they could be added as accused. The petitioner would further submit that the fourth respondent has not followed the circular issued by the Department regarding the life certificates as well as legal heir certificate.

(iii) The petitioner has also filed a petition before the third respondent to cancel the fraudulent sale deeds dated 18.05.2016 and that petition was disposed of on 31.07.2017, against the same, the petitioner filed an appeal before the second respondent, who has categorically recorded that the said documents, which are registered based on the false documents are legally not valid. Thereafter, it appears that the petitioner had sent a representation dated 20.05.2020 to the respondents 1 to 3 requesting them to take departmental action as against the fourth respondent for the aforesaid irregularities. The respondents have not considered the same and therefore, having no other alternative and efficacious remedy, the petitioner is before this court seeking for a Writ



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of Mandamus.

3. The third respondent has filed a counter at the outset contending that the petitioner's power agent has no *locus standi* to file the writ petition, since the general power of attorney executed in his favour is only notarized one and not a registered document. Therefore, the petitioner cannot make any claim in respect of the immovable property. The third respondent would further submit that on the basis of the representation dated 22.12.2016, the third respondent after enquiry had passed an order dated 31.07.2017, wherein he has clearly stated that the complainant had not produced the legal heirship certificate of Mohamed Kani to prove the fact that Mohamed Kani had other legal representatives apart from the three persons, from whom the said Meera Hussain had obtained the power of attorney. Dissatisfied with this order, the general power of attorney of the petitioner had filed the appeal before the second respondent, Deputy Inspector General of Registration, who by order dated 07.02.2020 had confirmed the order of the third respondent. Instead of proceeding further in appeal, the petitioner has, by an astute



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drafting, sought for disposal of his representation dated 20.05.2020, which is the representation given after the orders were passed by the Deputy Inspector General of Registration. Therefore the third respondent sought for dismissal of this petition.

4. The learned counsel appearing for the petitioner had put across the case that the life certificates, which have been annexed to the sale deeds have all been executed on 18.05.2016 at Malaysia and the sale deeds had been executed on the same date, which is impossible. He would further submit that the legal heirship certificate, which has been produced is a fraudulent one, which is evident from the response of the Deputy Tahsildar, Ramnad, dated 11.08.2016, wherein he has stated that the legal heir certificate had not been issued by the Tahsildar, Ramanathapuram. Therefore, the legal heir certificate cannot be relied upon.

5. The learned Government Advocate on the other hand would submit that the power of attorney has no *locus standi* to file a writ



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petition, since the power, which has been granted to him is only unregistered document. Further, no document whatsoever has been filed by the petitioner to show that apart from the three persons, to whom life certificates had been issued, there were other children for the deceased Mohamed Kani. In fact, a perusal of the disputed legal heir certificate clearly show that the petitioner is also a legal heir of the deceased Mohamed Kani. The learned Government Advocate would further submit that the petitioner has suppressed the earlier proceedings for the very same relief.

6. Heard the learned counsel appearing on either side.

7. The power of agent of the petitioner has come to the Court stating that he is the registered power of agent. However, a mere perusal of the power of attorney dated 27.08.2016 would clearly show that the power deed has not been registered. Further, the petitioner would claim that the two sale deeds in question are fraudulent deeds and he has not made any mention about the same in the power of attorney in his favour, which has come to existence nearly three months after execution of the



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alleged sale deeds. It is further not the case of the petitioner that the three brothers, who had executed the power of attorney in favour of the said Meera Hussain are no more. It is rather surprising that the petitioner would claim that these documents are fraudulent and he had not added his brothers, who are executants of the power of attorney which is claimed to be created fraudently in this writ petition. Further, the very same relief that is now sought for in the writ petition has already been addressed to the concerned authorities, who have also filed detailed reports. Therefore, filing of this writ petition suppressing the earlier orders is clearly not maintainable and should not be entertained.

8. Since serious issue of title is involved, the jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked and neither can the authorities below decide on title. Though the prayer is for considering the representation, the same cannot be granted for the reason that the very same representation has already been considered and orders given. Secondly, the power of attorney, which has been executed in favour of the power agent of the petitioner does not make any



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reference to these fraudulent sale deeds, both of which had come into existence even prior to execution of power of attorney in favour of the power of agent.

8. In view of the above discussions, this writ petition is dismissed.

It is open to the petitioner to work out his remedy before the Civil Court.

No costs. Consequently, connected miscellaneous petition is closed.

10.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The Inspector General of Registration,
No.100, Santhom High Road,
Pattinampakkam,
Chennai-600 028.

2.The Deputy Inspector General of Registration,
Madurai Region,
Integrated Registration Offices buildings,
Y.Othakadai,
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3.The District Registrar (Administration),
Ramanathapuram District,
Vandikara Street,
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P.T.ASHA, J.

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