



WP(MD)No.10776 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.10776 of 2016

Mathukannan

: Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
Sivagangai District,
Sivagangai.

2.V.Meenakshi

3.Nagalingam

4.Punitha

5.The Superintendent of Police,
Sivagangai.

: Respondents

[R.5 *suo-motu* impleaded vide order dated 23.02.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to act upon the Circular No.67, dated 03.11.2011 on the petitioner's representation dated 10.12.2012, within a stipulated time limit.



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For Petitioner : Mr.J.John

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.M.Ramesh,
Government Advocate for R.1

Mr.P.Kalaiyarasi Bharathi for R.2

No appearance for R.3, R.4

Mr.Vaikam Karunanithi,
Government Advocate (Crl. Side)
for R.5

ORDER

This writ petition is filed by the petitioner to conduct enquiry under Circular No.67, Registration Department dated 03.11.2011, to cancel the fraudulently registered documents, by considering the petitioner's representation dated 10.12.2012.

2.The case of the petitioner is that his father purchased the subject property from one Pitchai and Alagar through a sale deed vide Doc.No.316 of 1993. The second respondent and her husband impersonated themselves as the legal heirs of the Pitchai and Alagar and created a fraudulent sale deed vide Doc.No.319 of 2005



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dated 18.02.2005 with respect to the subject property. Hence, the petitioner seeks to invoke Circular No.67 to cancel the sale deed dated 18.02.2005.

3. When this writ petition came up for hearing, the learned Government Advocate produced the orders of the first respondent in Na.Ka.No. 2188/Aa1/E1/2013 dated 15.06.2016 and submitted that based on the petitioner's representation dated 10.12.2012, an enquiry was conducted as per Circular No.67. However, the private respondents in that proceedings did not appear. Therefore, with the available materials, the District Registrar came to a conclusion that a fraudulent registration has been made and recommended for a criminal prosecution as against the officials concerned and also issued necessary directions to the Joint Sub Registrar (II) to lodge a criminal complaint.

4. Learned Counsel for the petitioner submitted that though the District Registrar has passed the order as early as on 15.06.2016, the Joint Sub Registrar has not taken any steps to lodge a complaint and therefore, the petitioner has filed WP(MD)No.15332 of 2020 for implementing the orders of the District Registrar. Immediately after the filing of that writ petition, the Joint Sub Registrar has addressed a letter dated 05.11.2020 to the Inspector of Police to register a



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complaint, however, without disclosing the nature of complaint for which the criminal case has to be registered.

5.Learned Counsel for the petitioner further submitted that the petitioner's mother has also lodged a detailed complaint before the Superintendent of Police, Sivagangai, on 17.11.2020, along with the proceedings of the Joint Sub Registrar dated 05.11.2020 and the same has been acknowledged in the Office of the Superintendent of Police, Sivagangai, in receipt no.3415, dated 17.11.2020. Even then, no action was taken on the complaint till date. Hence, this Court by order dated 23.02.2023, *suo moto* impleaded the Superintendent of Police, Sivagangai as the fifth respondent.

6.Though Circular No.67 is withdrawn by Letter.No.41530/u1/2017 dated 20.10.2017, it is the mandatory responsibility of the Registrar or Sub-Registrar to launch criminal prosecution for the offence under the Registration Act including fraudulent registration as contemplated under Section 83 of the Registration Act which is one important step in preventing fraudulent registration. Therefore, the respondent officials shall pursue the complaints lodged diligently.



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With this direction, this writ petition is disposed of. No costs.

Index : Yes / No
NCC : Yes / No
gk

20.06.2023

To

- 1.The District Registrar,
District Registrar Office,
Sivagangai District,
Sivagangai.
- 2.The Superintendent of Police,
Sivagangai.



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B.PUGALENDHI, J.

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