



W.P.No.10817 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2024

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.No.10817 of 2015 and
W.M.P.No.1 of 2015**

S.A.Syed Masood Mowlana (deceased)

2. Syedha Zahra
3. Syedha Ummu Sakeena
4. Syeda Yasina Syeda Azher Mouiana
5. Syed Yasin Moulana
6. Syed Ali Moulana

... Petitioners

(P2 to P6 were substituted as LR's of the deceased petitioner, vide order dated 29.01.2024 in W.M.P.No.14527/2022 in W.P.No.10817/2015)

Versus

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai – 600 028.
2. The District Registrar,
Nagapattinam District,
Nagapattinam.
3. The Sub Registrar,
Nagore Sub Registrar Office,
Nagapattinam.
4. Mohamed Ali



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5. Mohamed Ashik Ali

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6. C.J.M.Philomin Chinna Roja,
District Registrar,
District Registrar Office,
Nagapattinam, Nagapattinam District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Mu.Mu.No.1673/A1/2014 dated 11.11.2014 (served on 14.03.2015) and in Na.Ka.No.90/A1/2015 dated 30.05.2016 passed by the second respondent, quash the same and consequently direct the respondents 1 to 3 to cancel the fraudulent settlement deed dated 06.09.2010 registered as Doc.No.1298/2010 on the file of the third respondent in exercise of their power under the Registration Act, 1908, Rules and Circular time being in force.

(Prayer amended vide order dated 25.03.2019 made in W.M.P.No.20100/2016 in W.P.No.10817/2015)

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.U.Baranidharan,
Spl. Govt. Pleader for R1 to R3

No Appearance for R4 to R6



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ORDER

This writ petition has been filed to quash the impugned order, wherein the request of the petitioner to cancel the forged documents, has been rejected by the sixth respondent in the capacity of the second respondent.

2 Learned counsel appearing for the petitioner submitted that the subject property is a family property and now the petitioner is owner and he only taking care of the entire property. On 01.03.1977, the petitioner inducted one M.A.Rahman as tenant, and due to default in paying rent, initiated rent control proceedings and got an order of eviction dated 03.09.1981 and he also filed execution petition. Pending the execution petition, fourth respondent, who is the son of the said M.A.Rahman has filed two suits against the writ petitioner for permanent injunction and partition alleging that the writ petitioner's brother Syed Sahabdeen Mowlana had appointed one Fathah Mowlana as his power agent and the power agent executed a sale deed dated 12.11.1986 in favour of the fourth respondent. Both the suits were dismissed by the Sub Court, Nagapattinam, by judgment and decree dated 20.04.1988, against which, the fourth respondent filed appeals, which were also dismissed and once again the fourth respondent filed second appeals, which were dismissed by this Court on



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09.10.1996 and later it was confirmed by the Hon'ble Supreme Court in SLP (Civil) No.2452 of 1997 dated 17.10.1997 and accordingly the judgment and decree passed in the suits attained finality.

3 Learned counsel further contended that the fourth respondent after disposal of the two suits, purposely executed settlement deed in favour of his son viz. the fifth respondent based on the forged sale deed dated 12.11.1986, which in fact declared as null and void by the Civil Court and the same was upheld by the Hon'ble Supreme Court as stated supra. Based on the settlement deed, the fifth respondent filed a suit in O.S.No.69 of 2014 against the petitioner's brother Syed Sahabdeed Mowlana, who in fact settle down at Sri Lanka. Suppressing all the above facts, the fourth and fifth respondents are playing fraud on the Court and the present suit filed by them in O.S.No.69 of 2014 is a bogus litigation, which is highly contemptuous. Further the sixth respondent joined duty only on 01.12.2014, whereas she has passed anti-dated impugned order dated 11.11.2014 quoting the suit in O.S.No.69 of 2014, which is liable to be quashed.

4 Learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the impugned order was made ready on



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11.11.2014, but, the same was not typed and sent to the parties and thereafter at the instance of the respondents 1 to 3, it was sent, but, inadvertently typed the name of the sixth respondent. As far as the other contentions regarding the forged documents, this Court stayed the Circular No.67 dated 03.11.2011 of the first respondent which empowers the District Registrars to cancel the fraudulently registered document and the issue also pending before the Larger Bench of this Court. Therefore the prayer of the writ petitioner could not be considered.

5 Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

6 It is an admitted fact that the deceased petitioner obtained an order of eviction against the father of the fourth respondent and the suits filed by the fourth respondent against the petitioners were dismissed, against which, the fourth respondent filed appeals and the same were dismissed and once again the fourth respondent filed second appeals, which were also dismissed by this Court. Further the SLP filed by the fourth respondent against the judgment and decree in the second appeal was also dismissed, which means the judgment and



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decree passed in the suits filed by the fourth respondent, wherein his claim was negatived, has been upheld by the Hon'ble Supreme Court in SLP (Cvil) No.2452 of 1997 dated 17.10.1997. In such way, the fourth respondent taken up matter up to the Hon'ble Supreme Court, but he could not obtain any fruitful order in his favour.

7 The learned Special Government Pleader contended that since there is stay and issue also pending before the Larger Bench of this Court, the request of the petitioner to cancel the forged documents could not be considered.

8 But in the present case, the fact is that the Civil Court after detailed trial, declared the alleged sale deed as null and void and the matter went up to the Supreme Court and the order the Civil Court attained finality. The stay order and the issue related to Section 77-A of Registration Act pending with the Larger Bench of this Court, is only to conduct enquiry and pass orders by the District Registrar. But here is the case, where already the Hon'ble Supreme Court upheld the order of the Civil Court, wherein the alleged documents have been declared as forged one. Therefore, the sixth respondent in the capacity of the second respondent has no legal impediment in following the



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order of the Civil Court dated 20.04.1988 in O.S.Nos.122 and 189 of 1986,

wherein the learned trial Judge, after trial and hearing the arguments on either side, clearly stated that the alleged sale deeds are not true and valid. Therefore when the sale deed dated 12.11.1986 has been declared by the Civil Court as not valid and true, the settlement deed executed by the fourth respondent, based on the said sale deed in favour of his son viz. the fifth respondent itself is not valid. Hence the second respondent cannot reject the claim of the petitioner quoting the present suit in O.S.No.69 of 2014, which in fact filed based on the settlement deed and the same is not legally sustainable and is liable to be quashed.

9 Accordingly, the writ petition shall stand allowed and the impugned order is hereby quashed and the second respondent is directed to pass orders on merits and in accordance with law based on the judgment and decree passed by the Civil Court dated 20.04.1988 in O.S.Nos.122 and 189 of 1986, which was upheld by the Hon'ble Supreme Court. Consequently connected miscellaneous petitions is closed. No costs.

15.02.2024

Index: Yes/No
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To

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P.VELMURUGAN, J.,

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