



W.P.No.10477 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04..07..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.10477 of 2021

M.Moorthy

..... Petitioner

-Versus-

- 1.The District Collector,
District Collectorate,
Villupuram 605 103.
- 2.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram, Chennai 600 028.
- 3.The District Registrar,
Thindivanam District Registrar Office,
Sivan Kovil Street, Thindivanam.
- 4.Mrs.Rajaveni,
Village Administrative Officer,
Thenkolapakkam Village,
Thindivanam Taluk, Villupuram District.
- 5.Mr.Amudhaiyan,
Sub Registrar,
Sub Registrar Office Mailam,
Thindivanam Taluk, Villupuram District.



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6.M.Selvam
7.Adhimoolam
8.Periyasamy

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..... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of for the records of the 3rd respondent in his proceedings Na.Ka.No. 2664/ A1/ 2020 dated 10.03.2021 and to quash the same in so far as it relates to the absence and silence of initiating any further action on the findings and to impound the documents and to recover the appropriate stamp duty payable on the instruments and direct the 1st and 2nd respondent to initiate appropriate penal action against the 4th and 5th respondent for their active collusion and conspiracy with the respondents 6 & 7 to defraud the Government within the time to be specified by this court.

For Petitioner

Mr.B.Dinesh Kumar

*For Respondent (s) : Mr.B.Vijay,
AGP for RR1 to 3*

*Mr.V.Hariraman for
RR6 to 8*

No Appearance for RR4 & 5

ORDER

This writ petition has been filed challenging the order of the 3rd respondent in his proceedings dated 10.03.2021 in Na.Ka.No.2664/A1/2020 rejecting the request of the petitioner to cancel the documents viz., (1) sale deed



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dated 11.03.2020 executed by Periyasamy in favour of Selvam registered as

Doc.No.570/2020 dated 11.03.2020, (2) sale deed dated 11.03.2020 executed

by Periyasamy in favour of Adhimoolam registered as Doc.NO.571/2020, (3)

settlement deed dated 14.07.2020 executed by Adhimoolam in favour of

A.Madhanakumar and Mrs.Pushpa registered as Doc.No.1074/2020 and (4)

settlement deed executed by Indirani in favour of Selvam and others registered

as Doc.No.1116/2020.

2. It is the case of the petitioner that the property measuring an extent of 98 square meters comprised in S.NO.123/5 was purchased by his father from one Periyasamy from and out of his own funds in 1997 and his father had been in absolute possession and enjoyment of the same till his death. The property comprised in S.No.124/1 was the ancestral property of his father and his father was allotted the same towards his share. Thus, according to the petitioner, his father had been in possession and enjoyment of the total extent of 196 square meters of land as per patta No.108.

3. It is the further case of the petitioner that his father during his life time, divided the said properties into four plots and allotted the same in favour of his sons, the petitioner, Selvam, Adhimoolam and Elumalai @ Lawrance and each of them was put in separate possession. His father died on 15.10.2014. The



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petitioner and his brothers continued to be in separate possession and enjoyment of their respective shares. When that being so, two of his brothers namely Selvam and Adhimoolam, the respondents 6 & 7 with the help of the 8th respondent, who was the original owner and his legal heirs had managed to get two sale deeds registered in their favour on 11.03.2020. In the sale deeds, the subject properties were shown as vacant sites. Within one month thereafter, a settlement deed was executed by Adhimoolam in favour of his wife-Pushpa and his sons wherein the settlor had shown that there was a building aged about 20 years standing on the subject property. All the documents were fraudulently executed. In those circumstances, he made a representation to the 3rd respondent to cancel the sale deeds and settlements referred to above. The District Registrar by his order impugned in the writ petition rejected the representation of the petitioner and relegated the petitioner to approach the appropriate civil court having jurisdiction. It is this order which is under challenge.

4. Heard both sides.

5. Mere allegation that two of the brothers of the petitioners got the sale deeds registered in 2020 in respect of the subject properties in their favour though they very well know the fact that the very same properties were



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purchased by his father in 1997, yet the sale was not registered would not constitute an offence of forgery or fraud. Though there may be a suppression of material information in the document with regard to valuation of the property which was subject matter in the sale deed, yet that would only lead to recover necessary stamp duty or take action against the persons concerned for having given false particulars to the registrar at the time of registration of a document and the same would not warrant cancellation of document.

6. Further, it was also brought to the notice of this court challenging the validity of the documents referred to above, there is already a civil suit filed by the petitioner in O.S.No.241 of 2021 on the file of the Principal Subordinate Judge, Tindivanam, 1) Selvam 2) Athimoolam 3) Elumalai @ Lawrence 4) Periyasamy 5) Madhan kumar 6) Pushpa for declaration against the documents and for other reliefs and the same is pending. Therefore, the petitioner may agitate all the grounds raised in the writ petition before the civil court in the pending suit.

7. In such view of the matter, the order impugned in the writ petition insofar as it relates to rejection of the request of the petitioner in respect of cancellation of sale deeds and settlement deeds referred to above stand confirmed, however, in respect of allegation regarding suppression of material



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particulars to the registrar, the registrar concerned may take action either to recover the stamp duty and registration charges or initiate action under Section 83 of the Registration Act, 1908.

In the result, the writ petition is allowed in part to the extent indicated above. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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