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W.P. No.7692 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.7692 of 2024 and
W.M.P. Nos.8609, 8610 and 8612 of 2024

S.Sudharsan

... Petitioner

Vs

- 1.The Secretary
Commercial Taxes and Registration Department
Government of Tamil Nadu
Secretariat
Chennai - 600 009
- 2.Inspector General of Registration
Registration Department
Santhome High Road
Chennai - 600 028
- 3.The District Registrar (Full Incharge)
Salem East Registration District
Salem District
- 4.The District Registrar (Full Incharge)
Salem West Registration District
Salem District
- 5.P.Kanagaraj



W.P. No.7692 of 2024

The District Registrar (Audit)
Krishnagiri Registration District
Full Incharge Salem East Registration District
Full Incharge Salem West Registration District
Krishnagiri District

6.Nagaraj Sharma

7.Sreedhar

8.The Police Commissioner
Office of the Police Commissioner, Salem
Salem

9.T.Balamurugan

10.M.Thamizhselvan

11.The Sub Registrar
Office of Sub Registrar
Yercaud
Salem District

12.The Sub Registrar
Office of Sub Registrar
Omalur
Salem District

13.The Sub Registrar
Office of Sub Registrar
Mettur
Salem District

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records /E4/relating to Letter No.7475/E/2023 dated 19.10.2023, and consequential



W.P. No.7692 of 2024

executive order bearing No.Na.Ka. No.7475/E4/2023 dated 18.01.2024 on the file of the 3rd to 5th respondent and quash the same and consequentially direct the 2 to 5th and 11th to 13th respondents to remove the entry made in the Register in Book No.3 Volume No.74 Document No.151/72 Page No.24 to 37 as forged will dated 12.10.1972 as it is inserted document and subsequent sale deeds registered in the office of the S.R.O., Omalur, Document No.5956 of 2023 (Sale Deed), Sale Agreement registered as Document No.6185 of 2023, and further on the office of SRO, Mettur, Sale deed registered as document No.3012/2023 and sale agreement registered as Doc No.3718/2023.

For Petitioner : Mr.U.Karunakaran

For Respondents : Mr.B.Vijay, Addl. Govt. Pleader
for R1 to R4 and R11 to R13

Mr.C.Vigneshwaran for R5

Mr.P.S.Raman, Senior Counsel
for Mr.A.Umashankar for R6

Mr.Pa.Elantamil Arvalan for R7

Mr.S.Sugendran,
Addl. Public Prosecutor for R8

ORDER



W.P. No.7692 of 2024

WEB COPY

This writ petition has been filed challenging the impugned order passed by the respondents holding that the Will, said to have been registered on 12.10.1972, is found to be a fabricated document. The respondents have passed an order stating that since the Will has been fabricated and inserted in their records, no further document should be registered on the basis of the Will.

2. Mr.Pa.Elantamil Arvalan, the learned counsel appearing for the 7th respondent would submit that the respondents 6 and 7 are the beneficiaries of the subsequent Will and hence opposed the writ petition.

3. It is the grievance of the writ petitioner that the testator, namely one Hanumantha Rao, has bequeathed the property in favour of the petitioner and registered the Will in the year 1972 itself. Pursuant to the said Will, after the death of the testator on 24.11.2007, the petitioner became the absolute owner of the property. Therefore, the impugned order passed by the respondents cannot be sustained in the eye of law.

4. According to the respondents, as per the records maintained in the office of the Joint I Sub Registrar, Salem (West), the Document No.151/2019,



W.P. No.7692 of 2024

is a forged one, since on the particular year, only 150 documents were registered in Book - III, Volume 74. According to them, the document has been inserted at page Nos.35 to 37. There are no thumb impression or signature of the testator and hence no entries found in the Index Register Book - III for this fabricated document. According to them, as per their enquiry, the document has been created. Since the very registration itself is disputed by the official respondents, this court has directed the respondents to produce those books for its perusal. On perusal of the same, this court finds that the entries related to the disputed Will of the year 1972, *prima facie* appears to have been inserted in Book - III Vol.74. Normally all the bound volume of the books contain serial number in a printed manner, whereas it appears that serial number has been given in handwritten numbers. That apart, in the signature and the thumb impression register, there is no entry relating to the registration of the Will. It is the further contention of the learned counsel for the respondents that many of the executants also not put their thumb impression at the relevant point of time. Therefore, that cannot be a ground to suspect the Will.

5. Be that as it may, this court, as a writ court, is not giving any positive finding regarding the registration of the Will, but *prima facie* finds that the



W.P. No.7692 of 2024

contention put forth by the Registering authority has some force. Therefore, it is for the writ petitioner to dislodge the said contention and establish the genuineness of the Will before a competent civil court by adducing proper evidence.

6. In such view of the matter, as there is a disputed question raised particularly with regard to the registration of the Will, the order passed by the Registering authority does not require any interference. It is for the writ petitioner to work out his remedy before a competent civil court. In the event, if the petitioner succeeds in the civil court, then automatically the findings of the civil court will bind on the parties.

7. It is also relevant that an enquiry with regard to the purchase of stamp papers on which the Will has been registered also has to be conducted or at least that has to be proved before the trial court so that the truth will come out.

8. With the above observation, this writ petition is disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed. Let the civil court decide the case on its own merits uninfluenced by any of the



W.P. No.7692 of 2024

WEB COPY

observations made in this order. This observation has been made only for the purpose of disposing of this writ petition, and not on the merits of the case.

11.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The Secretary

Commercial Taxes and Registration Department

Government of Tamil Nadu

Secretariat, Chennai - 600 009

2.Inspector General of Registration

Registration Department

Santhome High Road

Chennai - 600 028

3.The District Registrar (Full Incharge)

Salem East Registration District

Salem District

4.The District Registrar (Full Incharge)

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5.The Police Commissioner

Office of the Police Commissioner, Salem

Salem

6.The Sub Registrar

Office of Sub Registrar



W.P. No.7692 of 2024

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Yercaud

Salem District

7.The Sub Registrar
Office of Sub Registrar
Omalur
Salem District

8.The Sub Registrar
Office of Sub Registrar
Mettur
Salem District

9.The Government Pleader
High Court, Madras



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W.P. No.7692 of 2024

N.SATHISH KUMAR, J.

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