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WP.Nos.696 & 697 of 2015

In the High Court of Judicature at Madras

Dated : 23.9.2024

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition Nos.696 & 697 of 2015
& MP.Nos.2 & 2 of 2015

Mrs.Santhanalakshmi

...Petitioner in
WP.No.696 of
2015

Mr.V.G.Karthikeyan

...Petitioner in
WP.No.697 of
2015

Vs

1.The District Registrar,
Cuddalore, Cuddalore District.

2.The Inspector General of
Registration, No.100,
Santhome High Road,
Pattinapakkam, Chennai-28.

...R1 & R2 in
both the WPs

3.M/s.Fundamental Rights
Awareness Society, rep.by its
President Mr.M.D.Alagiri,
Cuddalore.

4.Mr.K.P.Tajudeen
(R3 & R4 impleaded as per order of
court dated 13.1.2015 by TSSJ in
MP.Nos.3 & 3 of 2015 in WP.Nos.
696 & 697 of 2015 respectively)

...R3 & R4 in
both the WPs



WP.Nos.696 & 697 of 2015

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the first respondent leading to the order passed in Na.Ka.No.8290/A1/2013 dated 29.10.2014 and quash the same.

For Petitioners : Mr.M.Naraayanaswamy
For R1 & R2 : Mr.T.Chezhiyan, AGP
For R3 & R4 : Mr.Anton Dhanasekaran

COMMON ORDER

These writ petitions have been filed challenging the proceedings dated 29.10.2014, by which, the first respondent found that a fraud had been committed under Section 83 of the Registration Act and permitted the Joint Sub-Registrar-II, Cuddalore to take criminal prosecution against the petitioners, in whose names, the registered will dated 21.7.1984 was executed.

2. Heard the learned counsel for the petitioners, the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned counsel appearing for respondents 3 and 4.

3. The case of the petitioners is as follows :

(i) The petitioners are none other than the mother and the son.



WP.Nos.696 & 697 of 2015

There are two properties, which are under dispute. The first property was acquired by Mrs.Santhanalakshmi by virtue of a sale vide doc.No.3387 of 1988. The second property was acquired by Mr.V.G.Karthikeyan, by virtue of a registered will dated 21.7.1984 vide doc.No.38 of 1984.

(ii) The family of the petitioners was in possession of the lands even before the order of the concerned District Collector dated 21.10.1933 by virtue of a reassignment on the ground that the Inamdhar had not utilized the money for the benefit of Sherkhan Mosque. Further, patta was granted by the concerned Settlement Tahsildar by order dated 26.3.1971 in favour of one Mr.Dhandapani Pillai, who is none other than the grandfather and the great grandfather of the petitioners respectively.

(iii) At the instance of the third respondent, the fourth respondent gave a complaint to the first respondent dated 27.3.2013 stating that the subject lands belonged to darga and that the various transactions done in the meanwhile were invalid. Based on the said complaint, the first respondent initiated action, to which, the petitioners gave a suitable reply dated 13.5.2013 along with all the relevant documents. After hearing the parties elaborately, the first respondent, by order dated 04.12.2013, dismissed the complaint given by the fourth respondent.



WP.Nos.696 & 697 of 2015

(iv) Once again, on the instigation of the third respondent, the fourth respondent gave another complaint dated 05.11.2013 to the first respondent with the very same set of facts. To the shock and surprise of the petitioners, the very same officer, who passed the earlier order dated 04.12.2013, entertained the second complaint and passed the impugned order without any explanation whatsoever. Hence, the petitioners are before this Court.

4. This Court carefully considered the submissions of the respective learned counsel on either side and perused the materials available on record and more particularly the impugned order.

5. The learned counsel appearing for respondents 3 and 4 fairly submitted that once the earlier complaint dated 27.3.2013 was rejected on 04.12.2013, without setting aside the same, the first respondent has no power to pass another order on the very same set of facts.

6. It is seen that the fourth respondent filed a complaint before the first respondent on 27.3.2013 and it was dismissed on 04.12.2013. With the very same set of facts, the second complaint dated 05.11.2013 was filed by the fourth respondent before the very



WP.Nos.696 & 697 of 2015

same officer and it was entertained and an adverse order came to be passed on 29.10.2014.

7. Once an order was passed on 04.12.2013, the first respondent has become functus officio and another complaint filed by the fourth respondent on the very same set of facts cannot be entertained.

8. Accordingly, the writ petitions are allowed and the impugned order dated 29.10.2014 passed by the first respondent is set aside. However, liberty is granted to respondents 3 and 4 to work out their remedy in a manner known to law. No costs. Consequently, the connected MPs are closed.

23.9.2024

Index : Yes (or) No
Neutral Citation : Yes (or) No
To
1.The District Registrar,
Cuddalore, Cuddalore District.

2.The Inspector General of
Registration, No.100,
Santhome High Road,
Pattinapakkam, Chennai-28.

RAP



WEB COPY



WP.Nos.696 & 697 of 2015

M.DHANDAPANI,J

RAP

WP.Nos.696 & 697 of 2015
& MP.Nos.2 & 2 of 2015

23.9.2024