



WEB COPY

W.P.No.20750 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.20750 of 2024

R.Arularasan

...Petitioner

versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

2.The District Registrar,
Office of the District Registrar,
No.52, Orikkai Madhura,
Kancheepuram 631502

3.Jagadeeswari
Sub Registrar, Joint-I,
Office of Sub Registrar,
Kancheepuram

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records made in No.8958/U1/2024 dated 07.06.2024 passed by the 1st respondent and quash the same and take action against the Sub Registrar or grant sanction for prosecution of the 3rd respondent under Section 197 of Cr.P.C.

For Petitioner

: Mr.Rajaramani
for Mrs .T.Gnana Banu

For Respondents

: Mr.B.Vijay for R1 and R2
Additional Government Pleader

**ORDER**

With the consent of both parties, this Writ petition is taken up for final disposal at the admission stage itself. Mr.B.Vijay, learned Additional Government Pleader takes notice for the 1st and 2nd respondents.

2. This Writ Petition has been filed challenging the impugned order in No.8958/U1/2024 dated 07.06.2024 passed by the 1st respondent.

3. The case of the petitioner is that the subject property namely Door No.45B, West Raja Street, Kancheepuram in TS No. 1805/1B along with the adjoining western side portion originally owned by one Puspavathy Ammal, petitioner's great grandmother. She had a son namely Rajagopal and two daughters namely Sarojini and Saraswathi. She has executed a registered Will on 20.07.1977 in favour of two daughters and life estate to her husband. As Saroja created problem, the entire property of Pushpavathy Ammal was settled in favour of Saroja in the year 1981. Since dispute arose between two daughters, Pushpavathy Ammal bequeathed the entire property in favour of the petitioner on 24.05.1982. The said settlement deed executed in the year 1981 had been challenged by the other daughter Saraswathi in a suit in O.S.No.12 of 1983.

(ii). In the said suit, the daughters of Pushpavathy entered into a compromise. Pursuant to such compromise, the deed of settlement was



upheld by the Court. In the meanwhile, the petitioner being the great grandson said to have obtained the right on the basis of the Will dated 24.05.1982 executed by late great grandmother Pushpavathy. According to him, based on the compromise decree, Sarojini has sold the property to an extent of 16.42 sq.ft to one Alexandar on 21.02.2022 which has been registered as a document bearing No.847 of 2022. Thereafter, it appears that the petitioner have given a petition on 08.06.2022 to the District Registrar. However, the said petition has been rejected on the ground that there is title dispute in the subject property and the same has to be agitated in the Civil Suit.

(iii). The petitioner also filed a criminal complaint after obtaining the orders under Section 156(3) of Cr.P.C. It appears that the complaint is also now closed. Thereafter, he once again given a complaint to the District Registrar citing that the document is undervalued and the said application was also rejected. That apart, as against the order passed by the Inspector General rejecting the contention of the petitioner to cancel the document, a writ petition has been filed in W.P.No.34223 of 2023. This Court by the order dated 31.01.2024, remanded the matter once again to the Inspector General of Registration for passing fresh orders. Even after remanding, the application of the petitioner was rejected on the ground that it is only a title dispute. Before that, the present writ petitioner has filed a writ petition in



W.P.No.5008 of 2023 to direct the Inspector General of Registration to pass an order to cancel the document and also to grant sanction to prosecute the Sub Registrar and this Court, vide order dated 21.02.2023 had clearly directed the respondent to consider the petitioner's representation dated 26.10.2022 and pass orders on merits and in accordance with law.

4. Learned counsel for the petitioner would submit that pursuant to the orders passed by this court, the first respondent has passed an order rejecting the request vide proceedings No.24033/U1/2023 dated 13.10.2023. Once again, the writ petitioner has filed a writ petition in W.P.No.34223 of 2023 challenging the said order dated 13.10.2023. He further submitted that this Court vide order dated 31.01.2024 had quashed the impugned order and directed the first respondent to issue notice to the petitioner and pass fresh order in accordance with law. But the 1st respondent without considering the scope and ambit of representation dated 26.10.2022 had passed the order without application of mind. The petitioner's complaint is to take action against the Sub Registrar or grant sanction for prosecution of Sub Registrar under Section 197 of Cr.P.C. In spite of finding by the 1st respondent against the Sub Registrar, rejecting the petitioner's representation holding that no violation of Rules by the Sub Registrar, so as to take action against him is illegal and unsustainable. The petitioner never sought cancellation of



sale deed by invoking Section 77 A of Registration Act and challenged the order in proceedings No.8958/U1/2024 dated 07.06.2024. Aggrieved by the same, the present writ petition is filed.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent and also perused the records carefully.

6. At the outset, narrating the above facts indicate that the writ petition is nothing but an abuse of process of law for the simple reason that the petitioner wants to achieve by way of representation what he could not achieve in a proper civil suit in establishing so called unregistered Will said to have been executed by great grandmother in the year 1982. Though it is not germane for consideration to go into the issue, the very fact that he relies on the Will in the year 1982 indicates that on the date of alleged will, the testator has no right in the property. The property had already been transferred and settlement deed was executed in the year 1981. Be that as it may, even assuming that later the settlement deed has become void in view of the compromise entered between the private parties, the fact remains that the right of the petitioner will be crystallized only when the so called will has been established in the manner known to law. Therefore, the question of seeking direction to grant the sanction to prosecuting the Sub-Registrar is



nothing but mere vexatious litigation. The Sub-Registrar has registered the document presented for registration by a person who purchased the property after verification of the title. One of the original owner Saraswathi who also bears the same title on the basis of suit in O.S.No.12 of 1983 has sold the property. When such being the position, the question of initiating action against Sub Registrar for criminal prosecution is nothing but the vexatious one. Therefore, as stated supra, the petitioner cannot indirectly achieve what he could not achieve in the civil suit. Hence, I do not find any merits in the writ petition.

7. Accordingly, this writ petition is dismissed. No costs.

26.07.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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N.SATHISH KUMAR, J.

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