



W.P(MD)No.5485 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5485 of 2024

M.Lakshmana Pandian

... Petitioner

Vs.

1.The District Registrar (Administration),
Thenkasi District.

2.M.Velladurai Pandian

3.S.Sivathiya Pandian

4.C.Pathma

5.M.Selvam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent proceeding in Na.Ka.No.8437/A2/2022 dated on 06.07.2023 and to quash the same as illegal and consequently directing him to make necessary entry in the index in the light of circular bearing Letter No.41530/U1/2017 dated 31.07.2018 issued by The Inspector General of Registrar, Chennai as well as based on final order passed by this Court in



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SA.(MD).No.150 of 2021 dated on 08.03.2022 within a stipulated time fixed by this Court.

For Petitioner : Mr.A.Sennthilkumar

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader for R1.
Mr.S.Kumar for R2 to R5.

ORDER

Heard the learned counsel on either side.

2.The petitioner and the second respondent herein are brothers. The second respondent herein had earlier filed O.S.No.419 of 2010 on the file of the Additional District Munsif Court, Sankarankovil for the relief of declaration of title and permanent injunction. The suit was dismissed. The appeal suit was also dismissed. Challenging the same, the second respondent filed S.A.(MD)No.150 of 2021. It was also dismissed. Paragraph No.22 of the said judgment and decree reads as follows:-

“22. Though the plaintiff has contended that he is in possession of the suit schedule properties from the date of oral partition, he has not chosen to produce any revenue record or any other document to establish his possession over the suit



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schedule properties. The first defendant has contended that the suit schedule properties were allotted to his share under Exhibit B2 partition deed. Based upon the said document, the first defendant has executed a sale deed on 26.09.2002 under Exhibit B6 in favour of one Francis. The said Francis has executed a sale deed in favour of the second defendant on 09.06.2006 under Exhibit B9. Hence, it is evident that the suit schedule properties have been dealt with by the first defendant, even prior to Exhibits A1 and A3. The first defendant had dealt with the suit schedule properties on 26.09.2002 and only thereafter, the plaintiff has chosen to alienate the same property in favour of his close relative on 23.06.2003. Thereafter, the purchaser under Exhibit B6 has alienated the suit schedule properties in favour of the second defendant on 09.06.2006. Only, thereafter, the plaintiff has chosen to repurchase the property on 26.08.2009 under Exhibit A3. Hence, the conduct of the plaintiff would reveal that he has attempted to create Exhibit A2 and A3 in order to establish possession over the suit schedule properties. Admittedly, the suit schedule properties are in the hands of the second defendant, pursuant to Exhibit B9 sale deed.”

3.The judgment and decree made in the second appeal have since been registered. Thereafter, the petitioner moved the first respondent for endorsing the sale deeds executed by the second respondent herein as fraudulent. The first respondent called upon the petitioner to move the jurisdictional Civil Court



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for relief. Challenging the stand of the first respondent, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned counsel for the private respondents pointed out that the writ petitioner had filed appeal before the Deputy Inspector General of Registration, Tirunelveli, challenging the impugned order and that he has parallelly filed the present writ petition. He produced copy of the enquiry notice issued by the Deputy Inspector General of Registration, Tirunelveli.

5. It is not in dispute that the documents impeached by the petitioner were executed between 2003 to 2009. During the relevant time, the Inspector General of Registration had not issued any circular for conducting enquiry and for endorsing a registered document as fraudulent. I have been consistently holding that subsequently issued circulars / instructions will not have any retrospective effect. Therefore, I cannot fault the decision taken by the first respondent. But then, the first respondent could not have gone beyond the scope of the controversy raised before him. Even while I sustain the eventual decision taken by the first respondent, all the other findings made by the first respondent in the impugned order stand vacated and set aside.



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6. This writ petition is partly allowed. No costs.

03.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The District Registrar (Administration),
Thenkasi District.



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G.R.SWAMINATHAN, J.

ias

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