



W.P.(MD)No.19343 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 22.10.2024

Pronounced on : .10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.19343 of 2024

and

W.M.P.(MD)Nos.16404 & 16407 of 2024

J.Uthayakumar

... Petitioner

Vs.

1.The Inspector of Police,
Theni Police Station, Theni.

2.The Sub-Registrar, Theni.

3.U.Vijayakumar

4.U.Jayakumar

5.G.Seenivasan

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to cancel the non-traceable certificate issued by him dated 23.08.2021 for Doc.No.392 of 2015 and Doc.No.2729 of 2015 dated 23.01.2015 and 23.04.2015 respectively, within a time fixed by this Court.



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For Petitioner : Mr.H.Arumugam
For R1 & R2 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.
For R3 to R5 : No Appearance

ORDER

This writ petition has been filed invoking Article 226 of the Constitution of India seeking a direction to the first respondent to cancel the non-traceable certificate issued by him dated 23.08.2021 for Doc. No.392 of 2015 and Doc.No.2729 of 2015 dated 23.01.2015 and 23.04.2015 respectively, within a time stipulated by this Court.

2.The case of the petitioner is that the third respondent has obtained a loan from him to the tune of Rs.12,00,000/- on 22.08.2015 and a sum of Rs.15,00,000/- on 12.04.2017, totalling Rs.27,00,000/- by executing promissory notes, that the third respondent subsequently handed over the original title deeds registered in Doc.No.392/2015 dated 24.08.2015 and another Doc.No.2729 of 2015 dated 23.04.2017 to the petitioner as



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collateral security for the above loan transaction creating equitable mortgage, that the third respondent had acknowledged the handing over of the title documents in writing through a yadast dated 20.05.2018, that the third respondent has neither paid the principal amount nor interest amount from August 2018 saying that he would settle the entire due on selling some other property, that subsequently, the petitioner came to know that the third respondent was taking steps to sell his properties for which equitable mortgage was created and on enquiry, the petitioner came to know that the third respondent obtained a non-traceable certificate fraudulently as if he lost the said document, with an intention to transact the property as the production of original documents is compulsory as per Rule 55-A of the Registration Act, that the petitioner has made a complaint to the first respondent requesting them to cancel the said certificate, that the petitioner has also given a representation to the second respondent on 27.01.2024 objecting for registration of any document, but, his representation was not considered, that the action of the third respondent would amount to fraud and cheating and that therefore, the petitioner was constrained to file the present writ petition seeking for cancellation of non-traceable certificate.



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3.It is evident from the records that despite receipt of Court notice, the respondents 3 to 5 have not turned up. Though a learned counsel has offered to file vakalat for the respondents 3 to 5, he has not filed any vakalat subsequently.

4.The learned counsel appearing for the petitioner would submit that the third respondent had executed promissory notes and handed over title deeds as collateral security and thereafter he has executed document evidencing the handing over of the title deeds. When a query was raised as to whether the petitioner is possessing the original documents as alleged by him, the learned counsel would submit that he is ready to produce the same before this Court.

5.When the matter was taken up subsequently, the learned counsel for the petitioner has produced the original documents and this Court has directed the learned Additional Public Prosecutor to verify the same. The learned Additional Public Prosecutor would submit that they have verified the documents and they are all original documents, for which, non-traceable certificate came to be issued by the first respondent. The



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petitioner has also filed an affidavit along with copies of the documents available with him, which came to be verified by the prosecution.

6.Considering the entire facts and circumstances and also taking note of the custody of the original documents with the petitioner, it can easily be inferred that the third respondent by handing over the title deeds to the petitioner as collateral security for the loan obtained by him, has managed to get orders from this Court and in pursuance of the same, obtained non-traceable certificate from the first respondent fraudulently. Hence, this Court has no hesitation to hold that the non-traceable certificate obtained fraudulently is ordered to be cancelled by the issuing authority.

7.In the result, this writ petition is allowed and the first respondent is directed to cancel the non-traceable certificate dated 23.08.2021 issued in favour of the third respondent. No costs. Consequently, connected miscellaneous petitions are closed.

.10.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

gns

To

- 1.The Inspector of Police, Theni Police Station, Theni.
- 2.The Sub-Registrar, Theni.

Pre-Delivery Order made in
W.P.(MD)No.19343 of 2024

.10.2024