



W.P.(MD)No.17150 of 2022

zBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17150 of 2022
and W.M.P.(MD)No.12510 of 2022

P.Rengarajan

... Petitioner

Vs.

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

2.The District Registrar (Admin),
District Registrar Office,
Cheranmahadevi Taluk,
Tirunelveli District.

3.The Sub-Registrar,
Vikramasingapuram,
Tirunelveli District.

4.S.Aavudaiyaachi.
(R4 is impleaded vide Court order dated
08.08.2022 in W.M.P.(MD)No.12869/22)

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent and quash the impugned order in Cheranmahadevi District Registrar (Admin) Proceedings Order No.2948/A2/2021



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dated 01.06.2022 as illegal, without jurisdiction and not in accordance with law and consequently direct the 3rd respondent to (i) not to contemplate to file Criminal Case against the parties of Document No.661/2019 u/s 82 and 83 of Registration Act, (ii) not to quote any notes in the concerned diaries as per Circular No. 41530/U1/2017 dated 31.07.2018, (iii) not to include the notes that as per Cheranmahadevi District Registrar (Admin) proceedings order No.2948/A2/2021 dated 01.06.2022 the Vikramasingapuram Sub-Registrar Office Document No. 661/2019 has falsely written and registered without following the circular of Inspector General of Registration in Schedule II and documents.

For Petitioner : Mr.J.Arul Prakash
For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1 to R3
Mr.K.Jayamohan for R4

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent and quash the impugned order in Cheranmahadevi District Registrar (Admin) Proceedings Order No.2948/A2/2021 dated 01.06.2022 as illegal, without jurisdiction and not in accordance with law and consequently direct the 3rd respondent to (i) not to contemplate to file Criminal Case against the parties of Document No.661/2019



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under Sections 82 and 83 of Registration Act, (ii) not to quote any notes in the concerned diaries as per Circular No.41530/U1/2017 dated 31.07.2018, (iii) not to include the notes that as per Cheranmahadevi District Registrar (Admin) proceedings order No.2948/A2/2021 dated 01.06.2022 the Vikramasingapuram Sub-Registrar Office Document No.661/2019 has falsely written and registered without following the circular of Inspector General of Registration in Schedule II and documents.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent and perused the materials available on record.

3. It is the case of the writ petitioner that the petitioner has purchased the subject property from one Arumugam, who is stated to be a son of Sivasubramania Thevar, by way of sale deed dated 16.04.2019. A complaint has been given by the 4th respondent, claiming to be the wife of Sivasubramania Thevar, seeking to cancel the said sale deed dated 16.04.2021. According to the 4th respondent, the person who sold the property is not a legal heir of Sivasubramania Thevar. Based on the said complaint, the impugned order has been passed, declaring that the sale



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deed registered in Document No.661/2019, dated 16.04.2019 is a false document and directed the respondents to file criminal case and also made entries in the concerned diaries. Challenging the same, the petitioner has filed Writ Petition.

4. On a perusal of the impugned order, it is seen that the impugned order is proceeded mainly on the ground that as the death certificate and legal heir certificate has not been produced, criminal action has to be initiated under Sections 82 and 83 of the Registration Act, 1908. It is relevant to note that to initiate action under Section 82 of the Registration Act, 1908, it must be established that intentionally makes any false statement or intentionally delivers to a registering officer a false copy or translation of a document or falsely personates another and in such assumed character presents any document, or makes any admission or statement or abets. Only on establishing these facts, the prosecution can be initiated. Similarly, only when any act is said to be an offence under the Registration Act, 1908 the prosecution can be initiated under Section 83 of the Registration Act, 1908. Therefore, without any basic facts to hold that there are certain acts, which fall within the ambit of Sections 82 and 83 of the Registration Act, 1908, merely on the basis of a complaint given by the fourth respondent, claiming to be the legal heirs of Sivasubramani Thevar, such order cannot be



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passed. Now it is stated by the parties that a suit for declaration of title is also pending in O.S.No.185 of 2021, on the file of Principal District Munsif Court, Ambasamuthiram.

5. Considering the facts and circumstances of the case, this Court is of the view that whether the vendor of the petitioner is the original legal heir of Sivasubramania Thevar has to be seen on evidence. Therefore, it is for the petitioner to establish his title in the pending suit. In the event, it is established that the vendor of the petitioner is not actually legal heir of Sivasubramania Thevar, the petitioner will not get title also. That apart, the so called vendor can be prosecuted, on proof of such facts.

6. With the above observations, this Writ Petition is partly allowed and the impugned order dated 01.06.2022 stands quashed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.08.2024

NCC : Yes/No
Index : Yes/No
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N.SATHISH KUMAR, J.

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To

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