



WP(MD). No.519 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 29/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.519 of 2021 and Crl.O.P.(MD) No.5859/2021
WMP(MD) Nos.443 and 445 of 2021 and
Crl.M.P.(MD) No.2313 of 2024**

W.P.(MD) NO.519/2021

1. Imayam Trust,
2. P.Periannan,
3. P.Reesa,
4. P.Sivakumar,
5. A.Andy,
6. A.Nagammal,
7. A.Malliga,

... Petitioners

Vs

1. The Inspector General of Registration,
100 Santhome Road, Chennai-600 028.
2. The Deputy Inspector General of Registration,
Trichy Zone, Trichy.
3. The District Registrar,
Ariyalur Registration District, Ariyalur.
4. D.Balakumar

... Respondents

PRAYER :- To issue a Writ of Certiorari calling for the records comprised in no. 5522/A4/2020 dt 20.11.2020 on file of the 3rd



WP(MD). No.519 of 2021

respondent and quash the same as arbitrary, illegal and contrary to the provisions of the Registration Act, 1908 and rules thereunder.

For Petitioner : M/s.Raguvaran Gopalan
For Respondents : Mr.P.Subbaraj for R1 to R3
Special Government Pleader
Mr.P.Ranganathan Reddy for
Mr.King & Patridge for R4

CrI.O.P.(MD) NO.5859/2021

D.Balakumar

... Petitioner

Vs

1. The Superintendent of Police,
Trichy District, Trichy.

2. The District Registrar,
Ariyalur Registration District, Ariyalur.

3.The Sub Registrar
Sub Registrar Office
Thuraiyur, Trichy District.

4.The Inspector of Police,
Thathaiyankaar pettai Police Station,
Thathaiyankaar pettai,Trichy District

5. P.Periannan,

6. P.Reesa,

7. P.Sivakumar,

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 1st respondent to transfer the investigation from the file of the 4th respondent to some other agencies for the complaint of the 3rd



WP(MD). No.519 of 2021

respondent in Na.Ka.No.388/2020 dated 30.11.2020 to the 4th respondent based on orders passed by the 2nd respondent in No.5522/A4/2020 dated 20.11.2020 within the period stipulated by this Court.

For Petitioner : M/s.A.Haja Mohideen
For Respondents : Mr.P.Subbaraj for R2 & R3
Special Government Pleader
Mr.Vaikkam Karunanidhi
Government Advocate (Crl. side)
Mr.Raguvaran Gopalan for R5 to R7

COMMON ORDER

WP(MD) No.519/2021

Challenge has been made to the order passed by the District Registrar recommending criminal prosecution. The said order came to be passed by the District Registrar on the basis of the complaint given by one Balakumar, the 4th respondent herein, whose brother was admittedly removed from the trust and after removal, the said complaint came to be preferred and the suit is also pending.

2. Be that as it may. The complaint reads as if the power of attorney and title deeds of 1995 have fraudulently created and based on that document, the trust availed a loan of Rs.9,75,00,000/- except that details, no other allegation has been made in the complaint. Pursuant to



WP(MD). No.519 of 2021

the said complaint, enquiry has been conducted by the District Registrar and orders have been passed on 12.06.2020 in proceedings No. 7257/A2/A4/2019, wherein, he has recorded a finding that no forgery is involved in the document and rejected the complaint. Thereafter, the same District Registrar once again passed the impugned order dated 20.11.2020, wherein, having recorded the fact that he has not in a position to ascertain whether the power of attorney of the year 1995 has been fraudulently created or forged, however, taking note of the admission of one of the removed trustees, namely, one Prabhu, he has ordered for prosecution.

3. The facts presented in the affidavit and submission clearly indicated that one Aravindraj originally purchased the property from various persons based on several power of attorney of the year 1995. When such sale and power of attorney have never been questioned by anyone so far, after purchase in the year 1995, the said Aravindraj sold the property to the Trust in the year 2009. The Trust has come into picture only after the purchase in the year 2009. Even assuming that any such fraudulent activities took place in the year 1995, trust may not be



WP(MD). No.519 of 2021

aware of that. For that they cannot be held liable. Be that as it may, all the trouble started only among the trustees and a complaint came to be filed.

4. Having regard to the said facts and orders passed by the District Registrar and District Registrar recorded the fact that the trust is not able to ascertain the alleged forgery and other things and when the orders came to be passed only on the basis of the statement of one of the removed trustees, this Court is of the view that the order cannot be sustained in the eye of law, which is without any basis and foundational facts. Hence, the impugned order is quashed and the writ petition is allowed. It is for the parties to work out the other issues with regard to the trust in the pending suit. No costs.

CrI.O.P.No.5859/2021

This petition has been filed to direct 1st respondent to transfer the investigation from the file of the 4th respondent to some other agencies for the complaint of the 3rd respondent dated 30.11.2020 to the 4th respondent based on orders passed by the 2nd respondent in No.



WP(MD). No.519 of 2021

5522/A4/2020 dated 20.11.2020 within the period stipulated by this Court.

2. As the said order of the District Registrar itself is quashed, the question of directing the respondent police to register/transfer the case does not arise at all. It is also stated by the respondent police that after investigation, they have filed an enquiry report to the effect that no prima facie case is made out to register an FIR. As the very basis, which is sought to be relied, namely, the order of the District Registrar has been quashed by this Court, this petition is dismissed. In the event, forgery has been established in the appeal proceedings, based on the proceeding, the petitioner may proceed further to prosecute the concerned persons. Consequently connected Miscellaneous Petition is closed.

29.08.2024

NCC : Yes/No
Index : Yes/No

RR



WP(MD). No.519 of 2021

TO

1. The Inspector General of Registration,
100 Santhome Road, Chennai-600 028.
2. The Deputy Inspector General of Registration,
Trichy Zone, Trichy.
3. The District Registrar,
Ariyalur Registration District, Ariyalur.
4. The Superintendent of Police,
Trichy District, Trichy.
5. The Sub Registrar
Sub Registrar Office
Thuraiyur, Trichy District.
6. The Inspector of Police,
Thathaiyankaar pettai Police Station,
Thathaiyankaar pettai
Trichy District



WEB COPY



WP(MD). No.519 of 2021

N.SATHISH KUMAR,J

RR

**ORDER
IN
WP(MD) No.519 of 2021 and Crl.O.P.No.5859 of 2021**

Date : 29/08/2024