



W.P.(MD) No.2281 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.2281 of 2018
and
W.M.P(MD)No.2494 of 2018**

S.M.Antonio Herman

... Petitioner

Vs.

1.The Sub Registrar,
Kottaram,
Nagercoil,
Kanyakumari.

2.The Sub Registrar,
Kanyakumari Joint-I,
Nagercoil,
Kanyakumari.

3.K.Kaushikan,
4.Vairavan Kasirajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to forbear the 1st respondent from registering the property in Survey No.648/1A1A of Kanyakumari village, Kottaram Sub Registration, Kanyakumari based on the petitioner's representation dated 01.12.2017.



WEB COPY

W.P.(MD) No.2281 of 2018

For petitioner : Mr.V.Sasi Kumar

For respondents : Mr.B.Saravanan

Additional Government Pleader for R1 & R2

Mr.B.Rajesh Saravanan for R3

Mr.G.Vanjinathan for R4

ORDER

The petitioner has filed this Writ Petition for the following relief:

“To forbear the 1st respondent from registering the property in Survey No.648/1A1A of Kanyakumari village, Kottaram Sub Registration, Kanyakumari based on the petitioner’s representation dated 01.12.2017.”

2. It is the case of the petitioner that the petitioner had executed a registered power of attorney in favour of the third respondent on 29.05.2017 and later, it was cancelled on 22.09.2017. However, a sale deed was executed by the third respondent on 08.09.2017 in favour of the fourth respondent on the strength of the power of attorney, although the power of attorney has been cancelled on 22.09.2017.

3. On the other hand, the learned counsel for the fourth respondent submits that on the strength of power of attorney dated 29.05.2017 executed by the



W.P.(MD) No.2281 of 2018

petitioner in favour of the third respondent, the third respondent had entered into sale agreement for 20 cents of the land on 24.07.2017. Since the petitioner's father was located in 2 cents of aforesaid land, the sale agreement was cancelled on 08.09.2017 and fresh sale deed was signed on the same day by the third respondent, as the power of attorney holder of the petitioner herein. Further, the document was presented for registration on 08.09.2017 and it was also registered on 22.09.2017.

4. The learned Additional Government Pleader for first respondent has drawn an attention to para 6 of the counter as follows:

“6. It is submitted that after knowing the fraudulent committed by the 3rd respondent on 20.11.2017 and the same was numbered as Petition No.15/2017. The 1st respondent also taken steps on the application of the petitioner and the enquiry is pending now. If, the allegations which raised by the Petitioner may proved by the enquiry, the 1st respondent shall initiate appropriate action against the respondents 3 and 5. Moreover, there is no encumbrance made by the respondents 3 and 4 in Survey No.648/1A1A of Kanyakumari Village, Kottaram Sub Registration, Kanyakumari District.”

5. In view of the above, this Writ Petition is disposed of, by directing the first respondent to complete the enquiry pending before the first respondent in



W.P.(MD) No.2281 of 2018

respect of the complaint given by the petitioner as expeditiously as possible preferably six weeks from the date of receipt of a copy of this order.

6. Needless to state, both the respondents 3 and 4 is entitled to participate in the aforesaid proceedings.

This Writ Petition is disposed of, with above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

28.06.2024

To

1.The Sub Registrar,
Kottaram,
Nagercoil,
Kanyakumari.

2.The Sub Registrar,
Kanyakumari Joint-I,
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W.P.(MD) No.2281 of 2018

C.SARAVANAN, J.

apd

W.P.(MD) No.2281 of 2018



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W.P.(MD) No.2281 of 2018

28.06.2024