



W.P.(MD)Nos.24838 and 21320 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.01.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)Nos.24838 and 21320 of 2022

and

W.M.P.(MD)Nos.18924, 18925 of 2022

W.P.(MD)No.24838 of 2022

Ameer Raja. D
Sub Registrar,
(In the Rank of District Registrar),
Arasaradi, Madurai District.

... Petitioner

/Vs./

1. The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai 28.
2. The Deputy Inspector General
of Registration, Madurai.
3. The District Registrar (Administration)
(In the Rank of Assistant Inspector
General of Registration),
Madurai North Registration District,
Integrated Registration Department Campus,
Thirumokur Salai, Rajakambeeram,
Y.Othakadai, Madurai-625 107.



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4. The Joint I Sub Registrar
Madurai North
(In the Rank of District Registrar),
Madurai North Sub Registrar Office,
Integrated Registration Department Campus,
Thirumokur Salai, Rajakambeeram,
Y.Othakadai, Madurai-625 107.

5. Nachchiappan .M.
S/o. Late. M.L.M. Mahalingam Chettiar,
Power Agent of Sarojini Achi, .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order made in No.4603/R2/2019 passed by the third respondent dated 19.04.2022 and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel
for M/s.Isaac Chambers

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 - 4
: Mr.S.Lakshmanasamy for R5

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M. arojini Achi,
MI. W/o.M.L.M. Mahalingam Chettiar,
M.L.M.Sarojini Achi,
W/o.(Late) M.L.M.Mahalingam Chettiar,



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Represented through Power Agent
M.Nachchiappan
S/o. Late. M.L.M. Mahalingam Chettiar,
/Vs./

... Petitioner

1. The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai 28.
2. The Deputy Inspector General
of Registration, Madurai.
3. The District Registrar (Administration)
(In the Rank of Assistant Inspector
General of Registration),
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4. The Joint I Sub Registrar
Madurai North
(In the Rank of District Registrar),
Madurai North Sub Registrar Office,
Integrated Registration Department Campus,
Thirumokur Salai, Rajakambeeram,
Y.Othakadai, Madurai-625 107.
5. Ameer Raja. D
Sub Registrar,
(In the Rank of District Registrar),
Arasaradi, Madurai District.
(R5 is impleaded vide Court order
dated 13.10.2022)



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6. The Superintendent of Police,
Madurai District,
Madurai.

7. The State by,
The Inspector of Police,
District Crime Branch,
Madurai District.
Madurai.

(R6 & 7 impleaded vide Court order dated 08.01.2025
in WMP(MD)No.22050 of 2024)

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent herein to initiate action against the Sub Registrar, who admitted and registered the document Nos.1185/1969 (third Respondent Office) 709/2010 (fourth respondent Office) 1628/2011 (fourth Respondent Office) 2222/2014 (third Respondent office) 3195 (third respondent office) 3196 (third respondent office) and 3197/2019 (third Respondent Office) by considering the order passed by the second respondent in proceedings No. 4603/R2.2019 dated 19.04.2022 within time fixed by this Court.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mr.S.P.Maharajan

Special Government Pleader for R1 - 4

: Mr.Isaac Mohanlal, Senior Counsel

for M/s.Isaac Chambers for R5



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COMMON ORDER

W.P.(MD)No.24838 of 2022 has been filed challenging the order passed by the third respondent dated 19.04.2022, on the complaint lodged by the fifth respondent.

2. Heard the learned counsel on either side and perused the materials available on record.

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3. The petitioner while he was working as Sub Registrar in the fourth respondent office, three sale deed were presented for registration by the counter parties in the complaint lodged by the fifth respondent, vide document Nos.3195/2019, 3196/2019 and 3197/2019 and got registered. The person, who had executed the sale deeds, had no title over the subject property and got registered in favour of third party. On receipt of the said complaint, the third respondent conducted enquiry after issuance of notice to the complainant as well as the respondents. After enquiry, the third respondent concluded that the petitioner while he



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was working as Sub Registrar failed to verify the original parent deed and patta in respect of the subject property and registered the same. The sale deeds are declared as fraudulent documents and directed to take appropriate action as against the persons, who committed offence under Section 83 of the Registration Act.

4. The learned Senior Counsel appearing for the petitioner submitted that the petitioner is being the registering authority registered the sale deed, which had presented for for registration, on verification of colour xerox copy of the parent document. He was nothing to do with the documents which were presented for registration. Further, the petitioner was not served with any notice and without providing an opportunity to the petitioner, came to be passed and directing to initiate a criminal case as against him under Section 83 of the Registration Act. Further, it is clear violation of principles of natural justice and the direction issued as against the petitioner cannot be sustainable. Further, the enquiry was conducted as per the circular issued by the first respondent dated 08.11.2017, now, the circular itself is declared as “unconstitutional” by this Court.



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5. W.P.(MD)No.21320 of 2022 has been filed for a direction, directing the first respondent to initiate appropriate action against the Sub Registrar, who admitted and registered the documents, in pursuant to the order passed by the second respondent dated 19.04.2022. He submitted that the persons, who had no title over the property, fraudulently created documents and executed sale deeds in favour of third party. The petitioner, who was being the Sub Registrar, without verifying the parent document and the encumbrance certificate in respect of the subject property registered the same. Therefore, as directed by the second respondent, a criminal proceedings has to be initiated as against the persons, who committed offence during the registration.

6. Admittedly, the petitioner was being the registering authority during the period from 08.07.2019 to June 2021. While being so, the sale deeds are presented for registration in respect of the property belong to the fifth respondent in W.P.(MD)No.24838 of 2022 and the petitioner in W.P.(MD)No.21320 of 2022, by third parties for registration. On verification of copy of the parent document, the petitioner registered the same vide Document Nos.3195/2019, 3196/2019 and 3197/2019. The



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fifth respondent in W.P.(MD)No.24838 of 2022, viz., M.Nachiappan is none other than the son and the power holder of the petitioner in W.P. (MD)No.21320 of 2022, viz.,M.L.M.Sarojini Achi, who is the owner of the subject property. On such registration of sale deeds, the fifth respondent in W.P.(MD)No.24838 of 2022 lodged a complaint before the District Registrar, alleging that one Thirugnanam had executed a deed of made over in favour of one Senthilkumar and Navakodi Ponselkar, without any title over the subject property. They are close relatives. In turn, the said Senthilkumar and Navakodi Ponselkar had executed another deed of made over in respect of the subject property in favour of one Logagurunathan vide document No.3195/2019. Thereafter, the said Logagurunathan sold the said property in favour of one Prabhakaran, vide document Nos.3196/2019 and 3197/2019 on 29.08.2019. The signature and thumb impression found in the parent sale deed dated 24.07.1969 were forged and fabricated and executed deed of made over in favour of the above said Senthilkumar and Navakodi Ponselkar. Therefore, the documents registered vide document Nos.1185/1969, 709/2010, 1628/2011, 2222/2014, 3195/2019, 3196/2019 and 3197/2019 are fabricated and forged one.



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7. Admittedly, the petitioner had registered the deed of made over and the sale deeds vide document Nos.3195/2019, 3196/2019 and 3197/2019 and the main parent document registered vide document No. 1185/1969 itself fabricated and forged one, in pursuant to the subsequent documents were executed and got register. Therefore, though the petitioner failed to verify the original parent documents, viz., document No.1185/1969 and patta, those documents are also fabricated one. Therefore, the original parent document could not serve any purpose, while registering the subsequent sale deed, vide Document Nos. 3195/2019, 3196/2019 and 3197/2019. That apart, the District Registrar, conducting enquiry and making allegation as against the registering authority. The District Registrar ought to have given opportunity to the registering authority by issuance of notice, while conducting enquiry. Admittedly, the District Registrar did not issue any notice to the petitioner and the petitioner is not given opportunity, to putforth his defence, on the complaint lodged by the fifth respondent. That apart, the enquiry was conducted, on the basis of the circular dated 08.11.2017 issued by the first respondent.



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8. On perusal of the circular, it revealed that after entertaining the complaint, notice is to be issued to the executants, claimants of the documents and witnesses, if found necessary to appear for the enquiry and should enquire the registering officer and if needed, call for the records from the Revenue Department and also shall summon the officer, to appear for enquiry by the District Registrar. It is mandatory in nature. Therefore, it is clear violation of principles of natural justice and direction issued as against the petitioner cannot be sustained in the eye of law. That apart, the circular dated 08.11.2017 itself now declared as “unconstitutional” by this Court.

9. Further, while pending the complaint and enquiry, the purchaser of the subject property, viz., one Prabhakaran, filed a suit on the strength of the sale deed, in O.S.No.145 of 2019 on the file of the District Munsif, Madurai Taluk, Madurai, as against the fifth respondent in W.P.(MD)No. 24838 of 2022 and the petitioner in W.P.(MD)No.21320 of 2022, for permanent injunction in respect of the subject property.



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10. In the said suit, the purchaser as well as the fifth respondent in W.P.(MD)No.24838 of 2022 and the petitioner in W.P.(MD)No.21320 of 2022 entered into compromise and the terms of compromise reads as follows:

“ a) The Plaintiff undertake that he will not claim any right over the suit schedule properties from today and further he should send a letter to the revenue authorities to change the revenue records in favour of the 1st defendant herein. The plaintiff undertake that he will not claim anything against the defendants herein in future with respect of suit schedule properties.

b) The plaintiff has to deliver the vacant position of the suit property to the defendants forthwith.

c) The plaintiff has to hand over the original sale deed number 3196 and 3197 of 2019 to the defendants herein.

(d) The plaintiff undertakes that he shall not file any appeal against the order passed by the District Registrar, Madurai North, Madurai in No. 4603/R2/2019 dated: 19.04.2022.

e) The defendant undertake that they will withdraw the criminal M.P.(MD)No. 3968/2022 which was filed for



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cancellation of anticipatory bail, which was granted in favour of the plaintiff herein Crl.O.P.(MD)No. 2942/2020.”

11. Accordingly, the possession of the subject property was handed over to the fifth respondent herein and also withdraw the cancellation of anticipatory bail petition in Crl.M.P.(MD)No.3969 of 2022 in Crl.O.P.(MD)No.2942 of 2020. While pending the suit, the fifth respondent lodged a complaint before the Inspector of Police, District Crime Branch, Madurai and the same has been registered in Crime No.9 of 2020 for the offence under Sections, 120(b), 463, 465, 467, 468, 471 and 420 of I.P.C. as against the accused persons, which is pending for investigation. Now, the apprehension of the petitioner is that as directed by the second respondent, the registering authority can initiate action as against the persons, who committed offence of forgery and fabrication of false document.

12. In view of the above, the direction issued by the second respondent, to initiate criminal prosecution as contemplated under Section 83 of the Registration Act and other remarks made as against the



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petitioner cannot be sustainable and the same is liable to be quashed accordingly, quashed. Hence, W.P.(MD)No.24838 of 2022 is allowed.

W.P.(MD)No.21320 of 2022:

13. In view of the order passed in W.P.(MD)No.24838 of 2022, the prayer sought for in W.P.(MD)No.21320 of 2022 cannot be considered and the same is liable to be dismissed accordingly, W.P.(MD)No.21320 of 2022 is dismissed. However, the first respondent is directed to initiate criminal proceedings as against the persons, who presented the sale deeds, by committing forgery and fabrication of false documents in the manner known to law, within a period of four weeks from the date of receipt of copy of this order.

14. In the result, W.P.(MD)No.24838 of 2022 is allowed and W.P.(MD)No.21320 of 2022 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Internet : Yes/No
NCC : Yes / No
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08.01.2025



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TO:-

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G.K.ILANTHIRAIYAN, J.

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Order made in
W.P.(MD)Nos.24838 and 21320 of 2022

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