

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.14643 of 2020

S.Noordeen

... Petitioner

-vs-

1. The Inspector General of Registration,
Inspector General Office,
Santhom High Road,
Chennai - 600 044.

2. The Deputy Inspector General of Registration,
Combined Registration Office Complex,
Rajakambeeram, Y.Othakadai,
Madurai-600 107.

3. The District Registrar (Administration),
The District Registrar Office,
Ramanathapuram.

4. The Sub-Registrar,
Sayalkudi Sub-Registrar Office,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Mu.Mu.No. 1958/A1/2020 dated 10.09.2020 and quash the same as illegal and further direct the 3rd respondent to conduct an enquiry and pass an order on merits.

For Petitioner : Mr.K.Kumaravel

For Respondents : Mr.K.Sathiya Singh
Addl. Govt. Pleader

ORDER

The petitioner has come forward with this Writ Petition, challenging the order passed by the 3rd respondent in Mu.Mu.No.1958/A1/2020 dated 10.09.2020, by which the petitioner's request for unilateral cancellation of Doc.No.806 of 2005 was declined, with an instruction to the petitioner to approach the Civil Court for redressal of his grievance.

2. quash the same as illegal and further direct the 3rd respondent to conduct an enquiry and pass an order on merits. seeking a direction to the 2nd Respondent to survey in the agriculture property of the petitioner in S.No.47/1 comprising in Patta No.487 situated at Maangatethal Revenue Village, Kalayarkovil Taluk, Sivagangai District with the help of competent Surveyor in field measurements and directing the Respondents No.1 to 5 to give adequate police protection at the time of survey in the agriculture property of the petitioner in S.No.47/1 on the basis of his representation dated 12.09.2020.

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3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the Respondents.

4. It is the case of the petitioner that the land in S.No.287/3A belonged to the father and his ancestors of the petitioner, which was later

inherited by him vide Inam Settlement Deed dated 20.06.2004 in Doc.No. 465 of 2004. There were suits filed by his father, which were all decreed in favour of the petitioner and when a portion of the land of petitioner was sought to be sold, it came to light that one Abubakkar Noordeen, by way of impersonation, executed a sale deed to one Dakshinamoorthy on 20.10.2005 with the connivance of the Government Officials and the 4th respondent, without applying his mind in order to support the Impersonator, registered the sale deed illegally, which is not a valid one. Aggrieved by such registration, the petitioner made a petition on 08.09.2020 to the 3rd respondent to cancel the document in Doc.No.806 of 2005 and the subsequent documents and the 3rd respondent, in turn passed the order impugned herein asking the petitioner to approach the Civil Court, against which, the petitioner is before this Court.

5. On perusal of the entire averments made in the Writ Petition, there arises some suspicion in the minds of the Court in registration of the document in Doc.No.806 of 2005, said to have been created. Section 68 of the Registration Act deals with the power of Registrar to superintend and control Sub-Registrars, which is extracted hereunder:

“68(1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.....”

6. It is also pertinent to mention that Section 83 of the Act authorizes the Registering Officers to commence prosecution in case of any fraudulent registration. For the sake of brevity, Section 83 of the Act is extracted below:

“ 83. Registering officers may commence prosecutions.

A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

7. At this juncture, it is represented by the learned Additional Government Pleader appearing for the Respondents that an enquiry would be conducted under Section 68 of the Registration Act to ascertain about the veracity of registration of the document and if there is any error, the same would be rectified and registration would be cancelled. It is further represented that in case there is any malpractices found during enquiry, a criminal prosecution will be initiated in terms of 83 of the Registration Act.

8. In view of the above submission, the Writ Petition is disposed of, with a direction to the 3rd Respondent to conduct enquiry and complete the same within a period of four months from the date of receipt of a copy of this order and no encumbrance shall take place in the properties in question till a final decision is taken thereon in terms of Sections 68 and 83 of the Registration Act. After completion of enquiry under Section 83 of the Act, if the fraud is established, imprisonment should be primary and imposition of fine is secondary and unless Law is very strict, this kind of fraudulent activities cannot be curtailed. No costs.

20.11.2020

Index: Yes/No
Internet: Yes/No
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Note: Registry is directed to mark a copy of this order to all Criminal Courts. Issue order copy on 23.12.2020

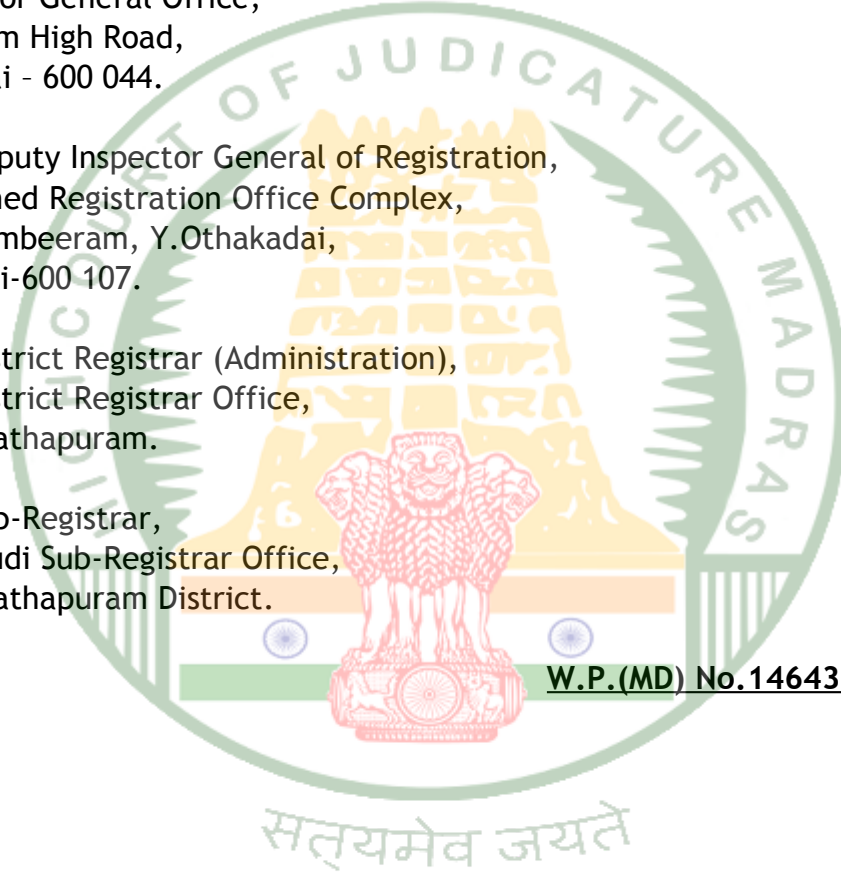
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S.VAIDYANATHAN, J.
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