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Court : Chennai Madurai

Decided On : Oct-17-2016

Judge : V. Bharathidasan

Appeal No. : W.P.(MD)No. 15649 of 2015

Appellant : Malliga Arulkumar

Respondent : The Inspector General of Registration, Santhome and Others

Judgement :

(Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the second respondent herein to take necessary action to cancel the documents referred to in the order passed by the second respondent dated 24.12.2014 by considering the representation given by the petitioner dated 14.08.2015 within the time stipulated by this Court.)

1. Challenging the order passed by the second respondent dated 24.12.2014, the present writ petition has been filed by the petitioner.
2. According to the petitioner, he made an application before the second respondent to cancel the Document No.1149/1984, dated 10.05.2011, registered on the file of the Sub-Registrar, Thiruverumbur, Trichy. Based on his representation, the second respondent also conducted an enquiry and examined

all the parties concerned and passed an order in his proceedings dated 24.12.2014, whereby, he has come to the conclusion that the above documents has been fraudulently created, but the second respondent did not pass final order cancelling the sale deed stating that the circular No.67/11 (C.No.52338/C1/2011 dated 03.11.2011) has been stayed by this Court.

3. The learned counsel appearing for the petitioner would submit that already this Court upheld the validity of the above Circular No.67 dated 03.11.2011 in the case of Ramasamy vs. State of Tamil Nadu reported in 2014(4) CTC 627 and against that order a writ appeal has been filed by the respondent therein, which is still pending and there is no interim order staying the operation of the Circular. Hence, there is no impediment for the second respondent to pass order to cancel the sale deed after having come to the conclusion that the above sale deed is created fraudulently. In support of his contention, the learned counsel produced a copy of an order passed by this Court in W.P(MD)No.4464 of 2016 dated 11.04.2016. Paragraph 3 of the said order is extracted hereunder:-

3.Now the petitioner is aggrieved only against the order of the second respondent for the reason that having come to the conclusion that they have got the right to decide the matter under Circular No.67, he should not have dismissed only on the ground that there is an order of interim stay in a batch of writ petitions. Whereas in a batch of Writ Petitions in W.P.(MD) Nos.5908 of 2012 and batch, it is held that there is no prohibition for the authority to dispose of the matter, on merits and in accordance with law. Even though the order was passed on merits in favour of the petitioner, in the last portion alone it has been stated that no order has been passed because of the injunction granted, which is wrong. Further, the contention of the fourth respondent that he also has the right to challenge the order, but, at this point of time, it does not arise since there is no interim order against the authority to pass order under Circular No.67. In other words, he can pass an order absolutely based on the findings. Hence, the matter is remitted back to the second respondent. Accordingly, the second respondent is directed to dispose of the case of the petitioner, on merits and in accordance with law, as expeditiously as possible, as there is no injunction order as asserted in the impugned order.

4. The learned Government Advocate appearing for the respondents is also not in a position to dispute the same.
5. In the above said circumstances, the second respondent is directed to pass the final order without reference to any interim order granted by this Court, as per his finding given in his proceedings in e.f.vz;.4335/M1/2014 dated 24.12.2014, within a period of six weeks from the date of receipt of a copy of this order.
6. With the above directions, this writ petition is disposed of. No costs.

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