

A. Maliki Vs. The Inspector General of Registration, and Others

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Court : Chennai Madurai

Decided On : Aug-26-2016

Judge : M. Venugopal

Appeal No. : W.P(MD)No. 15948 of 2016

Appellant : A. Maliki

Respondent : The Inspector General of Registration, and Others

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd Respondent to accept the Release Deed, dated 22.03.2016, presented by the Petitioner for registration and act on the document according to the provisions of Law.

1. Heard both sides.
2. By consent, the main Writ Petition itself is taken up for final disposal.
3. No counter is filed on behalf of the Respondents.
4. According to the Petitioner, his father one Abdullah (brother of his father) lived together, as Joint family, and hence, all the properties including the property in question was maintained by his father. In fact, the said Abdullah had given the said property to his father Abdul Majeed by way of 'Hiba', on 18.01.1975. His

father had accepted the same and the property was in his possession and enjoyment, till his demise. In fact, the revenue records were also changed in the name of his father Abdul Majeed.

5. It comes to be known that the Petitioner's father died on 13.06.2014 and after his demise, the Petitioner, his brothers and sisters reportedly in peaceful possession and enjoyment of the property. Also, the revenue records had stand in their name. His father totally has left behind five daughters and four sons (including the Petitioner). His sisters viz., Vajrathunisha, Tajunisha, Fouzia Begam and Shahila and one of his brother Sathik Batcha had jointly executed a Release Deed in his favour, releasing their shares over the aforesaid property, on 22.03.2016.

6. In fact, the Release Deed in question was presented for registration before the Third Respondent / Sub-Registrar, Thiruppanandal, Thanjavur District, on 23.03.2016, with all relevant documents, which are required for the purpose of registration of the Document, under the Registration Act, 1908. Indeed, the Third Respondent had returned the documents on the same day with a Memo, wherein, it was mentioned that 'it was found from the Encumbrance Certificate that in regard to the property, a Sale Deed was executed by some individuals, which were registered, as Document No.469/2014'. Hence, the document presented by him was returned, under Rule 27 of the Registration Rules.

7. It transpires that the Petitioner had already filed a Suit in O.S.No.368 of 2014, on the file of the Learned Principal District Munsif, Kumbakonam, challenging the aforesaid Document No.469/2014. Since, it is a fraudulent document, he lodged a complaint, in terms of ingredients of Circular No.67, issued by the First Respondent / Inspector General of Registration, Chennai-28. The said complaint was taken on file only after an order was passed by this Court in W.P.(MD)No.4372 of 2016, on 03.03.2016 and now, the Appeal is pending before the First Respondent as regards the same. In fact, the patta was cancelled by means of proceedings of the Sub-Collector, Kumbakonam, dated 26.11.2015.

8. The relief sought for by the Petitioner in the present Writ Petition is for passing of an order by this Court in directing the Third Respondent / Sub-Registrar,

Thiruppanandal, Thanjavur District, to accept the Release Deed, dated 22.03.2016, presented by the Petitioner for registration and act on the said document, in terms of the provisions of Law. It appears that the Petitioner had sent a representation, dated 08.08.2016, addressed to the Second Respondent / District Registrar, Kumbakonam, Thanjavur District, praying to accept his representation papers. It appears that no action has been taken in the subject matter in issue.

9. Apart from that, it is averred at paragraph No.9 of the Writ affidavit (filed by the Writ Petitioner) to the effect that soon after the receipt of letter from the Second Respondent / District Registrar, Kumbakonam, Thanjavur District, dated 17.06.2016, the Petitioner was called to appear on 18.07.2016 together with relevant document to be presented for registration. In fact, he had appeared before the Second Respondent with all relevant documents.

10. Also, it is categorically averred at paragraph No.9 of the Writ affidavit (filed by the Petitioner) to the effect that the Second Respondent had orally instructed him to appear again on receipt of a fresh summons. Till date, the Second Respondent had not issued any summons to the Petitioner. As such, the Petitioner was professed to submit a representation to the Second Respondent, on 08.08.2016 and the same was received. Till date, there is inaction on the part of the Respondents 1 and 2. Hence, he has filed the present Writ Petition.

11. Considering the limited relief sought for by the Petitioner in the present Writ Petition viz., for passing of an order by this Court in directing the Third Respondent / Sub-Registrar, Thiruppanandal, Thanjavur District, to accept the Release Deed, dated 22.03.2016, presented by the Petitioner for registration, at this stage, this Court, without traversing upon the merits and contents of the representation of the Petitioner, dated 08.08.2016 and also not expressing any opinion in one way or other on the said representation, dated 08.08.2016, simpliciter, directs the Second Respondent, to issue a fresh summons to the Petitioner, in the subject matter in issue, within a period of three weeks from the date of receipt of a copy of this order. The Second Respondent is directed to specify the date of appearance of the Petitioner (including time). In fact, if the Petitioner is to produce any document /

copy of relevant records from his possession, the Second Respondent, without any loss of time, is directed to issue the said Notice, requiring the Petitioner to produce the said records / documents and to proceed further, in the manner known to Law and in accordance with Law. In any event, the Second Respondent is to complete all the formalities in regard to issuance of summons in regard to conduct of enquiry in a complete and comprehensive manner so as to give a complete quietus in the subject matter in issue without precipitating the matter any further. It is expected that the Second Respondent / District Registrar, Kumbakonam, Thanjavur District, shall scrupulously comply with the order passed by this Court in true letter and spirit and that too, without any deviation whatsoever. It is open to the Petitioner to raise all the factual and legal pleas before the Second Respondent, at the time of conduct of enquiry by the Second Respondent and in case, if the Petitioner produced any relevant copy of documents, as exhibits on his side, the same shall be received by the Second Respondent and to proceed further so as to enable him to come to a logical conclusion, in the subject matter in issue, within the time adumbrated by this Court.

12. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

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