
(2002) 10 MAD CK 0070

In the Madras High Court

Case No : Writ Petition No's. 37571 and 37572 of 2002

M.S. Mathivanan

APPELLANT

Vs

Government of Tamilnadu

RESPONDENT

Date of Decision : 04-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2003 Mad 93

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : K. Venkataraman, for the Appellant; D. Krishna Kumar, Spl. G.P., For Respondents 1-4, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—Alleging that respondents 5 to 9 have no valid authority to execute documents relating to the properties owned by the Trust, viz. S.S.M. Foundation Trust for Education and Social Development as well as the educational institutions run by the Trust, viz. S.S.M. College of Engineering and Sun Shine Matriculation School, as they are ceased to be the trustees of the said Trust, the petitioner has submitted his objection to the fourth respondent for registering the documents executed by respondents 5 to 9. However, the fourth respondent, by proceedings No. 13 of 2002 and 12 of 2002 respectively, even dated 6.9.2002, rejected the objection of the petitioner. Hence, the petitioner seeks a writ of Certiorarified Mandamus calling for the records of the fourth respondent made in his letter bearing serial No.13 of 2002 and 12 of 2002, quash the same and direct the fourth respondent to take note of the said protest letter on the ground that the fourth respondent refused to exercise his powers conferred on him under Rule 55 of the Registration Rules (hereinafter referred to as the "Rules").

2. Rule 55 of the Rules reads as under.

" 55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic."

3. Mr.D. Krishna Kumar, learned Special Government Pleader, taking notice for respondents 1 to 4, submits that the fourth respondent is empowered to consider the objection of the petitioner raised on any one of the ground, viz.

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic.

4. If that be so, failure on the part of the fourth respondent to exercise his powers conferred under Rule 55 of the Rules, for considering the objection of the petitioner to register the document executed by respondents 5 to 9, vitiates the impugned proceedings. Hence, both the impugned proceedings are set aside, with a direction to the fourth respondent to consider the objection raised by the petitioner, by exercising the powers conferred under Rule 55 of the Rules, and to pass appropriate orders on merits, within fifteen days from the date of receipt of a copy of this order.

5. If the petitioner is still aggrieved by any order of the fourth respondent, it is made clear that he is at liberty to move the competent Civil Court for appropriate relief and the Court concerned shall go into the objections of the petitioner independently, without being prejudiced by the registration of the documents.

The writ petitions are allowed with the above directions. No costs. Consequently,

WPMP Nos. 56397 of 2002 are closed.