
(2011) 02 MAD CK 0089

In the Madras High Court

Case No : Writ Petition (MD) No. 10543 of 2009 and M.P. (MD) No. 1 of 2009

V.K. Amalraj

APPELLANT

Vs

Inspector General (Registrations), The Appellate Authority,
Government of Tamil Nadu and Others

RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Registration Act, 1908 — Section 34, 35, 36, 37, 38
Registration Rules, 1908 — Rule 55

Citation : (2011) 02 MAD CK 0089

Hon'ble Judges : R. Subbiah, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : V.K. Amalraj and Party in Person, for the Appellant; R. Janakiramulu, Special Government Pleader for Respondents 1-3 and G. Prabhurajadurai, for Respondents 4 and 5, for the Respondent

Final Decision : Dismissed

Judgement

R. Subbiah, J.—This writ petition is filed by the Petitioner as a public interest litigation to issue a writ of mandamus, for a direction to the first

Respondent to take all necessary preventive measures to stop forthwith all unlawful registration through out the State of Tamil Nadu by considering

his representation dated 09.10.2009.

2. The main grievance of the Petitioner is that without verifying the right of the ownership and other records the registering authorities registered

documents which had caused great prejudice to the Petitioner. Hence he lodged a complaint to the Inspector General of Registration, the first

Respondent herein on 29.07.2006 for which a reply from 1st Respondent, dated 18.08.2006 was received stating that the registration department

cannot stop accepting any document presented for registration unless there is a

specific stay from the Courts. Hence, the Petitioner has filed the present writ petition for the relief set out earlier.

3. The circumstances which made the Petitioner to approach this Court for filing the present writ petition is evident from the application filed by the

Respondents 4 and 5 who are none other than the brothers of the Petitioner to impale themselves as party Respondents to the writ petition. It is

stated that their parents left behind four sons and two daughters and during the life time of their father, he founded a Trust known as ""Gomathi

Trust"" and he had purchased certain properties in the name of the said trust. After the demise of their father, the properties were partitioned orally

among themselves and they are in enjoyment of their respective shares.

4. In the said situation, the writ Petitioner started to send false complaints against them disputing their rights over the property left by their father.

Further, the Respondents 4 and 5 had also come to know that the writ Petitioner had made an application before the Tahsildar, Sivagangai to

effect transfer of patta for all the properties in his name claiming that their father executed a will on 08.02.2002 bequeathing entire property in his

name. But on a perusal of a copy of the will, the Respondents 4 and 5 came to know that the writ Petitioner had created the said will by forging the

signature of their father. When the same was brought to the notice of the Tahsildar, the Tahsildar rejected the said application for transfer of patta

submitted by the writ Petitioner.

5. That apart a compliant was also lodged by the Respondents 4 and 5 as against the writ Petitioner for the alleged forgery. The writ Petitioner is

now attempting to settle his private dispute by abusing the process of court.

6. Though the application filed by the Respondents 4 and 5 was vehemently opposed by the writ Petitioner by filing elaborate counter, this Court

has allowed the application for imp leading by order dated 19.01.2010.

7. Opposing the prayer of the writ Petitioner, the official Respondents have also filed their counter affidavit stating that the Registrars and Sub

Registrars are appointed by the State Government by virtue of the provisions contained in Section 6 of the Registration Act 1908. The powers and

duties of the Registrars and Sub Registrars are enumerated under Sections 34 to 38, 52,55,57,58,59,60,61,63, 63,64,65,66,68,70,72,73,74,75

and 83 of the Act.

8. The power of the Registrar/Sub Registrar, while examining a document presented for registration, is spelt out under Sections 34 and 52 of the

Act. The Registering Officer can only examine the document presented for registration under the provisions of the Registration Act, 1908 and the

rules framed there under. Particularly, Rule 55 speaks about what is not the duty of the Registering officer. Hence, by covering all the legal

position, the Petitioner cannot expect the Registering Officer to examine the fact whether the seller of the property in any sale deed is a rightful and

lawful owner. The Registering Officer can initiate action only u/s 83 of the Act and by invoking Section 82 of the Act for offences like false

presentation alone and examining of ownership of the seller is beyond the jurisdiction and competence of the Registering Officer.

9. We have heard the learned Counsel appearing for the respective parties and perused the materials available on record.

10. It is the main grievance of the Petitioner that registering authorities are indiscriminately registering the documents without making proper enquiry

with regard to the rights and ownership of the seller. Therefore, Mandamus has to be issued to the Respondents to stop all unlawful registration

through out the State of Tamil Nadu by considering his representation, dated 09.10.2009. According to the Respondents 1 to 3, the Registering

Officer is expected to enquire into the document brought before him and he can make enquiry only within the frame of provisions of the

Registration Act and the Rules framed there under, particularly with reference to Rule 55 relating to enquiry before the registration speaks about

what is not the duty of the Registering Officer. Rule 55 is extracted here under:

55. Informs 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

11. A close reading of the said Rule would show the registering authority is bound to consider the objection only on the ground which is stated in

the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the right and ownership of the seller. Thus, the authorities

concerned are bound to act only in accordance with the Act and Rules framed there under. The authorities cannot be directed to act contrary to

the provisions of the statute. We also find that the writ petition is filed only to settle the family dispute between the Petitioner and the Respondents

4 and 5. Hence, we do not find any merit in the writ petition.

12. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.