

W.P. No. 29133 of 2017**N. KIRUBAKARAN,J.**

The petitioner filed the above writ petition seeking issuance of a Writ of Mandamus directing the 3rd respondent to release the documents dated 23.08.2016 and 26.08.2016 viz., the release deeds presented for registration, before the 3rd respondent in pending document Nos. P231 of 2016, P233 to P236 of 2016.

2. The perception of the public that Registration Department is bedrock of corruption is fortified by the following facts given by the petitioner's counsel. While passing the order dated 03.10.2018, this Court had taken note of the submission made by Mr.N. Suresh, learned counsel for the petitioner that certain new documents in respect of new properties are surreptitiously and illegally placed substituting the old documents, which had been registered many years ago, so that the new documents, which have been stealthily introduced would be deemed to be registered old documents. By this process, the Government properties and private properties are sought to be looted away by land sharks, real estate mafias. In this regard, the learned counsel for the petitioner, had brought to the notice of this Court, an instance wherein the property measuring about 9.63 acres comprised in Survey No. 394, Chemmencheri Village, which is said to have been the subject matter of

conveyance between two private parties in the year 1967, on verification from the "A" Register, has been found to be a Government land. Therefore, this Court, suo motu, impleaded Tahsildar, Sholinganallur and District Registrar, Saidapet as respondents 7 and 8 and directed them to produce the relevant records in respect of the aforesaid property.

3. When the matter is called today, Mr.C. Manishankar, learned Additional Advocate General would submit that Tahsildar, Sholinganallur, is pre-engaged in eviction proceedings evicting encroachers and therefore, he is unable to appear before the Court. However, he would submit that, on verification, the property comprised in S.No. 394, to an extent of 9.63acres, in Chemmencheri Village, which is said to have been conveyed through Document No. 3283 of 1967 is only a Government Land, which is in consonance with the contention made by Mr.N. Suresh, leaned counsel for the petitioner. Prima facie, it is clear that an attempt has been made to stealthily introduce survey number 394 of Chemmancheri which is a Government property in the old document, which has been substituted with a new document as if it is a private land. This Court is of the view that this is part of a large scale attempt made by real estate mafia in various registration offices to unlawfully occupy or loot Government properties and also the properties owned by other citizens. This kind of illegal acts could not be possible without connivance and support of

Registration Office staff who have the custody of property documents.

4. This is not an isolated case and there is yet another case which had come up before Mr. Justice N. Sathish Kumar and the learned Judge has ordered an enquiry in the matter. It is not known how many documents/Index books have been damaged in 578 Sub-Registrar offices and how many person's rights have been affected. It is equally not known how many properties have been illegally transferred to third parties using scrupulously substituted documents.

5. The District Registrar, Saidapet, is present before this Court. When this Court asked about Document No. 3283 of 1967, it is stated that the document has been damaged. When asked about the volumes as the documents would be preserved in two volumes, namely, Index Nos. 1 and 2, the officer, who is present before this Court produced a big cover containing some loose sheets, which cannot be sorted out. It is surprising and shocking to note that documents, which have to be preserved permanently, as per Rule 185 of the Registration Rules, have been maintained in such a bad condition. The volume would contain at least 200 documents. The status of the register would show that the properties, which are covered by 200 documents, are not available and it is not known as to whether the properties, which have been

conveyed through those documents are safe or not. Rule 185 of the Registration Rules is extracted as follows:

"Preservation of Records"

185. The following books and files shall be preserved permanently:-

Book No.1 - Register of non-testamentary documents relating to immovable property.

Book No.2 - Record of reasons for refusal to register.

Book No.3 - Register of wills and authorities to adopt.

Book No.4 - Miscellaneous Register.

Book No.5 - Register of deposits of wills.

Index Nos. I, II, III and IV and subsidiary indexes.

Register of thumb impressions.

File of translations.

File of appeal orders and judgments and orders of Courts.

Deposition book."

Usually, in Index NO.1, properties of 200 documents will be entered and Index No.2 would contain properties, which have been conveyed. Apart from the above, Book Nos. 1 to 4 would contain extracts of documents. When such a safeguard has been made statutorily to preserve the documents, this Court is unable to understand as to how the documents have been so carelessly, negligently and/or deliberately kept in such a manner that they have been destroyed or damaged.

6. It is not only mere damaging of documents, but the title of the owners, who are entitled to the properties covered under those documents and who are innocent property owners, have been made a questionable one. The officials are paid only for the purpose of doing their official duties and they are supposed to act as per the powers conferred under the statute and the connected rules. The Registration Department is a specialised department, well-versed with registration of documents and preservation of deeds, which are registered with them so that, in case of any difficulty by the parties regarding title or by the Court, can summon those documents and verify the same, as it is a reservoir of all title documents of parties under the jurisdiction of particular Registrar. When the basic documents themselves are being damaged/destroyed, it could be safely assumed that nobody's property is safe, as only the documents would speak before any Court of Law. Even for buying the property, the purchaser will always seek assistance from the Registration Department by way of encumbrance certificate and also survey numbers as there are many complaints about fabrication of documents. When such is the importance attached to Registration Department, it is not known as to how these documents have been damaged. Unless officials who are all servants of the public discharge their duties with integrity consciously, this kind of situations cannot be avoided.

7. In the above circumstances, the following queries are sought to be answered by the higher officials of Registration Department:

- (i) When the document, namely, Document No. 3283 of 1967, the volume and index, in respect of the same, got damaged?
- (ii) Whether it was brought to the notice of the higher authorities immediately?
- (iii) In case of any damage, what is the consequential action to be taken?
- (iv) Whether consequential action has been taken and if so, the details of the same
- (v) If consequential action has not been taken, what is the departmental action to be taken against those officials?
- (vi) How many volumes of registered documents in various Registrars' offices have been damaged?
- (vii) Whether any complaints have been given to the higher ups with regard to those damaged documents and whether any consequential action has been taken in respect of those documents?
- (viii) How the documents, which have to be preserved as per Rule 185 of the Registration Rules, could be safely preserved in future as the present way of preserving the documents has proved to be a failure?
- (ix) Whether the documents are transferred from the Sub Registrar, Joint

Sub Registrar to the Chief Joint Officer as per Rule 189 of the aforesaid Rules?

- (x) How many documents have been, so far, transferred as per Rule 189 of the aforesaid Rules?
- (xi) If it has not been done so far, why Rule 189 has not been implemented completely in view of the present position?
- (xii) When the digitization of all the documents would be over?

8. By order dated 04.12.2017, this Court raised queries seeking details of surprise checks conducted by DVAC, the number of persons arrested and the amounts seized for the past 10 years. In reply to the queries raised by this Court, the Inspector General of Registration stated that DVAC has conducted 155 raids from 2006 to 2017. It is seen that in 2016, no DVAC check was conducted while in 2007 and 2015, only one check was conducted and in 2006 and 2014, only two surprise checks were conducted. This Court would like to know as to how many surprise checks have been conducted by DVAC for this year as well as the following details:

- (i) Whether the details regarding DVAC surprise checks for the year 2016 are available or not?
- (ii) How many surprise checks by DVAC have been conducted in the year 2018?
- (iii) How many persons have been arrested in the year 2018?

- (iv) How much amount was seized during such checks in the year 2018?
- (iii) How many officials have been booked more than once by DVAC enquiry for the past 10 years?? (Each year detail to be given)

9. It has also been brought to the notice of this Court that a number of Registrars are allegedly leading a luxurious life owning imported cars, which is in the public domain as they are said to be travelling in those cars to the office regularly. In such a situation, DVAC should have taken into consideration all these aspects and should have conducted raids. It seems from the details given, for the past 10 years, as regards the number of surprise checks and number of persons arrested and the amount seized that DVAC surprise checks and enquiry only appear to be an eye-wash and they are not doing their work properly by conducting regular surprise checks, especially, when people are of the opinion that Registration Department is the bedrock of corruption. It is common man's view that no documents could be registered without payment. In view of that raids should be conducted regularly atleast every week. Otherwise, the very purpose of DVAC would be diluted and corruption would continue to rule. At the same time, this Court is aware of the fact that there are good officials working in the Registration Department and this Court does not want to impeach the entire Department. This Court is aware that the present Inspector General of Registration has brought many welcome changes

in the registration procedures to avoid corruption including online registration.

10. The above details asked for, have to be furnished by 01.11.2018 by the Inspector General of Registration as well as by the Secretary, Home Department, State of Tamil Nadu and the Inspector General of Registration shall be present before this Court on 01.11.2018 along with the reply to the above queries. The Tahsildar, Sholinganallur, who failed to appear before this Court, shall also be present before this Court along with relevant documents, on that day, and explain as to why he did not appear before this Court today.

11. If the reply given to the above queries is not satisfactory, then this Court will pass appropriate orders for larger enquiry, as many title deeds of innocent citizens are getting destroyed/damaged.

12. Post on 01.11.2018.

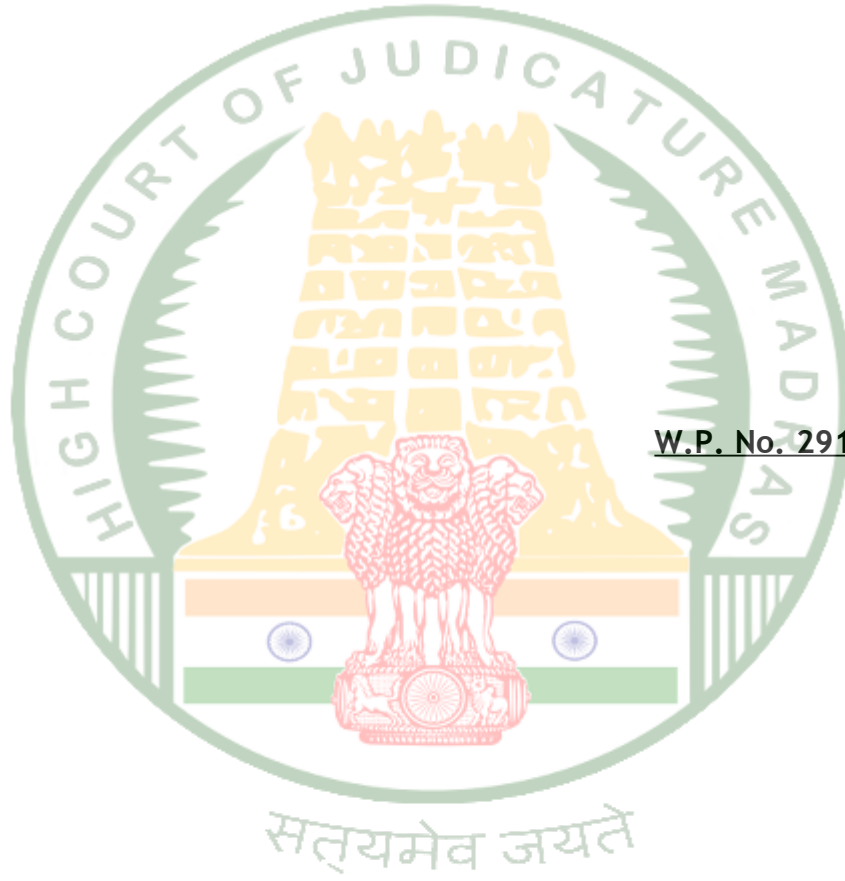
WEB COPY 10.10.2018

nv

(Note to office: office is directed to issue copy of this order and also the copy of the order dated 03.10.2018 today itself)

N. KIRUBAKARAN, J.

nv



W.P. No. 29133 of 2017

WEB COPY

Dated : 10.10.2018