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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.07.2019
CORAM:
THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR
W.P.(MD)No.16216 of 2019
and
W.M.P.(MD)No.12895 of 2019

Muthu

... Petitioner

Vs.

1.The District Registrar, (Administration)
Office of the District Registrar,
Madurai North,
Madurai District.

2.Pillammal

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the impugned enquiry notice issued by the first respondent in his proceedings in Na.Ka.No.1450/A1/2019, dated 22.05.2019 and to quash the same.

For Petitioner : Ms.Jessi Jeeva Priya
For Respondents : Mr.M.Murugan, G.A. for R1

O R D E R

The prayer in the Writ petition is for a Writ of Certiorari, to quash the the impugned enquiry notice issued by the first respondent vide proceedings in Na.Ka.No.1450/A1/2019, dated 22.05.2019.

2.Heard the learned counsel for the petitioner and the first respondent who accepts notice. Since no adverse order going to be passed against the 2nd respondent, notice to the 2nd respondent is dispensed with.

3.In the impugned order dated 22.05.2019, the petitioner has been directed by the first respondent to appear on 26.07.2019 at 3.00 pm. with regard to an enquiry and if the petitioner does not appear on such day, decision would be taken by the first respondent with available documents under Section 83 of the Registration Act (herein after called the Act). Aggrieved over the said order, the present Writ petition has been filed.

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4.The learned counsel for the petitioner submits that, if at

all the 2nd respondent, who is none other than the sister of the petitioner, has given complaint against the petitioner with regard to the registration of any document a limited enquiry under Section 68(2) of the Act can be made by the registering department, but, no enquiry can be made under Section 83 of the Act, which is enabling provision for launching prosecution against the erring officials of the registration department. Therefore, the impugned notice is unjust and unlawful and therefore, interference is required.

5.Heard the learned Government Advocate appearing for the first respondent, who would submit that, a complaint has been given by the 2nd respondent against the petitioner in respect of some instrument, naturally it has to be enquired under Section 68(2) of the Act and after completing enquiry, if anything found unlawful on the part of the registering department, the erring officials can be prosecuted by launching a prosecution under Section 83 of the Act and only in this regard, the said notice has been issued stating that the enquiry would be conducted under Section 83 of the Act. Actually, the enquiry would be conducted only under Section 68(2) and not under Section 83 and only the follow up action would be taken under Section 83 of the Act.

6.I have heard the said submission made by both sides. By consent of both sides, this Writ petition is disposed of at the admission stage.

7.As has been clarified by the learned Government Advocate appearing for the first respondent, the notice, which is impugned herein, is meant and intended only to have a limited enquiry under Section 68(2) of the Act and after completing enquiry, if the first respondent feels anything in different which requires launching of prosecution against the erring officials of the registration department, that would be undertaken by the first respondent under Section 83 of the Act and therefore, the language used and the quoting of Section 83 of the Act in the impugned notice would not itself make the notice unlawful and on that ground it cannot be construed that the first respondent cannot issue such notice inviting the petitioner to seek explanation or give his reply or objection against the complaint given by the 2nd respondent for having a limited enquiry.

8.In that view of the matter, this Court wants to clarify that the impugned notice is issued only with an intention to have an enquiry under Section 68(2) of the Act and in this regard, the response of the petitioner is very much required. Therefore, if at all the petitioner wants to give a response, she can appear and give such response, otherwise the petitioner being an aged lady, can send a reply through registered post to the first respondent, who on receipt of the same, can decide the issue by having an enquiry under Section 68(2) of the Act and thereafter, if the first respondent

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finds anything against any officials of the registration department, and if it is deemed fit, to take action under Section 83 of the Act against the erring officials for launching prosecution, the first respondent can do so in accordance with law.

9.With this clarification, this Court feels that there is no need to interfere with the impugned notice. Accordingly, this Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To
The District Registrar, (Administration)
Office of the District Registrar,
Madurai North,
Madurai District.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-76605[F] dated 22/07/2019)

+1 CC to M/s.SPL GP (SR-76898[F] dated 23/07/2019)

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NBJ
KK/SAR/24.07.2019/3P-4C

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