



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.17302 of 2020

and

W.M.P. (MD) .Nos.14487 and 14488 of 2020

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Kottiappan Raja

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai -28.

2. The District Registrar,
Thoothukudi District,
Thoothukudi.

3.The Sub Registrar,
Srivaikundam Sub Registrar Office,
Thoothukudi District.

4.Essaki

5.Gomathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings initiated by the third respondent in proceedings No.120/2020 dated 08.10.2020 and quash the same and consequently forbear the third respondent from proceeding with the proceedings No.120/2020 dated 08.10.2020.

For Petitioner	: Mr.K.Navaneetharaja
For Respondents 1 to 3	: Mr.K.Sathiya Singh
	Additional Government Pleader

ORDER

This writ petition has been filed against the proceedings initiated by the third respondent in proceedings No.120/2020 dated 08.10.2020 and quash the same and consequently forbear the third respondent from proceed with the said proceedings.

2. Mr.K.Sathiya Singh, learned Additional Government Pleader
<https://hdservices.sco.nic.in/hdservices/> the respondents 1 to 3. Since no adverse order is



going to be passed against the respondents 4 and 5, notice to them is dispensed with.

3. By consent, the writ petition is taken up for disposal at the admission stage itself.

WEB COPY

4. In this writ petition, the petitioner is challenging the notice dated 08.10.2020, asking the petitioner to appear for enquiry on 15.10.2020. In support of his case, the learned counsel for the petitioner relied upon the judgment of this Court in the case of **K.Palanisamy vs. The Joint Sub Registrar, Tiruppur, reported in 2010 (2) CWC 478** and stating that once the document is registered, the authorities have no power to take a different view to correct the records.

5. Per contra, the learned Additional Government Pleader would submit that the authority has got powers under Section 68 of the Registration Act, more so, by taking note of Section 68(2) of the Registration Act, 1908, the concerned authority may invoke Section 83 of the said Act. Section 68(2) of the Act, is extracted hereunder:-

"68.Power of Registrar to superintend and control Sub-Registrars.-

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered."

6. At this juncture, this Court would like to refer the judgment of the Hon'ble Apex Court in **Padmasundara Rao (Dead) & others vs. State of Tamil Nadu and others**, reported in **(2002) 3 SCC 533**, wherein the Hon'ble Apex Court has held that while relying on a judgment, if it is found that the factual situation totally differs, then there is no compulsion for the Subordinate Courts to blindly rely on the same to arrive at a conclusion. The relevant portion of the said judgment is extracted below:-

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a

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particular case, said Lord Morris in Herrington vs.



British Railways Board (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

7. Now in the present case on hand, it is represented by the respondents that in order to enquire about the forged patta document, which has been created by the parties, the authority has served notice to the parties. Hence, this Court is not inclined to accept the contention of the petitioner and further, this Court is not inclined to grant any relief sought for by the petitioner. Even the petitioner has also made a representation for objection dated 16.10.2020, it is for the authorities to consider and take the provisions in the Act and it is highly premature for this Court to entertain the relief sought for by the petitioner. Hence, the respondents, more particularly, the third respondent is directed to dispose of the proceedings after affording opportunity to the petitioner as well as the respondents 4 and 5 and other interested parties, on day to day basis. In case the petitioner has forged records, he must be sentenced to imprisonment.

8. With the above observation and direction, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

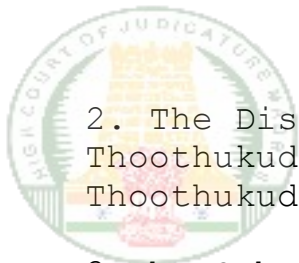
PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai -28.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The District Registrar,
Thoothukudi District,
Thoothukudi.

3.The Sub Registrar,
Srivaikundam Sub Registrar Office,
Thoothukudi District.

+1 cc to The Additional Government Pleader Sr.No.23877

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KM (06.01.2021) 4P 5C