



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P (MD) No.16833 of 2021

and

W.M.P (MD) .No.13716 of 2021

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J.Then Rajan

... Petitioner

Vs.

The District Registrar (Admin),
District Registrar's Office,
Madurai Road,
Virudhunagar Town and District,
Tamil Nadu 626001.

... Respondent

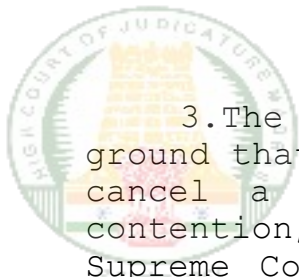
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, challenging the impugned proceedings of the District Registrar (Admin), Virudhunagar dated 01.07.2021 in Na.Ka.No.3177/AA4/2021 and quash the same as it is without jurisdiction and authority.

For Petitioner : Mr.S.Meenakshi Sundaram,
Senior Counsel
For Mr.M.Shengu Vijay
For Respondent : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner challenges an inquiry notice dated 01.07.2021 from the District Registrar (Administration), Virudhunagar, by which he was called upon to attend an inquiry on 09.07.2021 in relation to a petition for the cancellation of a document bearing No.6353/2009.

2.The petitioner states that the properties bearing Revenue Survey Nos.109, 120 and 123(1) of the Revenue Village of Sivakasi were the joint family properties originally owned by his grandfather and the other members of his family. Title is traced to a registered deed of partition dated 08.03.1948. The petitioner states that his father died on 23.06.2008. He was survived by the petitioner's mother, the petitioner and three sisters of the petitioner. A registered partition deed was entered into by the said persons on 28.08.2009, bearing Document No.6353/2009. The petitioner states that the present inquiry notice has been issued in respect of such partition deed based on a representation dated 28.01.2020 from one S.Saravanan.



3.The petitioner assails the inquiry notice primarily on the ground that the District Registrar does not have the jurisdiction to cancel a registered document. In order to substantiate such contention, the petitioner relies upon the judgment of the Hon'ble Supreme Court in **Satya Pal Anand Vs. State of Madhya Pradesh and Others ((2016) 10 SCC 767)** and other judgments of this Hon'ble Court, including an interim order dated 08.07.2021 in W.A(MD). No.1339 of 2021.

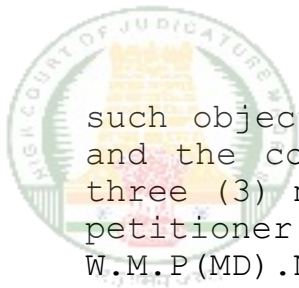
4.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the sole respondent.

5.As on date, the undoubted position is that the Registration Department does not have the authority to cancel a registered document. For such purpose, the person aggrieved should be relegated to the jurisdictional civil court. As regards an inquiry into fraud, the Registration Department has a limited role. Since the Registration Department is concerned with the registration process, the Registration Department may inquire into whether there was fraud in course of registration. To put it differently, the Registration Department cannot examine allegations of fraud that preceded registration or that succeeded registration. However, the remit of the Registration Department extends to examining whether a document was registered by impersonation, forgery or by submitting fake documents, which formed the basis for registration. In this process, the registration authority should also bear in mind that such authority does not have the jurisdiction to decide questions of title.

6.In the case at hand, there is another aspect that should be borne in mind. The complainant before the Registration Department assails a document registered on 28.08.2009 under Document No.6353/2009. Therefore, the challenge has been laid about twelve (12) years after the registration. This aspect of the matter and the constraints that the registration authorities would be faced with in inquiring into a registration that took place twelve (12) years ago should also be taken note of.

7.The petitioner is entitled to raise all the above mentioned objections before the District Registrar and submit documents and authorities in support of the objections. If such objections are raised, the District Registrar is under an obligation to consider and deal with such objections before taking a decision in the matter.

8.Subject to the observations set out herein, W.P.(MD).No.16833 of 2021 is disposed of by permitting the petitioner to raise objections in response to the inquiry notice within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt of such objections, the District Registrar shall consider



such objections, provide a reasonable opportunity to the petitioner and the complainant and issue a reasoned order within a period of three (3) months from the date of receipt of the objections from the petitioner. There will be no order as to costs. Consequently, W.M.P(MD).No.13716 of 2021 stands closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

The District Registrar (Admin),
District Registrar's Office,
Madurai Road,
Virudhunagar Town and District,
Tamil Nadu 626001.

+1 CC to M/s.M.SHENGU VIJAY, Advocate (SR-29716[F] dated 21/09/2021)

+1 CC to M/s.M.SENGU VIJAY, Advocate (SR-29740[F] dated 21/09/2021)

+1 CC to M/s.SPL.GP (SR-29867[F] dated 22/09/2021)

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RS (29.09.2021) 3P 5C