



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18954 of 2021

and

W.M.P(MD)Nos.15767 and 15769 of 2021

1.S.T.S.Prasadh

2.Dr.S.Padma

3.Dr.S.Vyjayanthi

4.Dr.S.Latha

... Petitioners

Vs.

1.The Inspector General of Registration,
O/o.Inspector General of Registration,
No.100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600028.

2.The Deputy Inspector General of Registration,
O/o. The Deputy Inspector General of Registration,
Near St.Johns Grounds,
Palayamkottai,
Tirunelveli District.

3.The District Registrar,
O/o.the District Registrar,
Palayamkottai,
Collectorate Campus,
Tirunelveli.

4.The Sub-Registrar,
Kovilpatti, Tuticorin District.

5.Mageshwari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice in No.Ka.No.31/44/A5/2021 dated 13.09.2021 on the file of the respondent



No.3 and quash the same as illegal.

For Petitioners : Mr.T.Lajapathi Roy
For R-1 to R-4 : Mr.P.Subbaraj,
Counsel for State.

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ORDER

The petitioners assail a notice dated 13.09.2021 from the third respondent.

2. The petitioners assert title to the property bearing old Survey No.305/1 part of an extent of 3 Acres 46 Cents of Punja land through a sale deed in favour of their paternal grandfather. Thereafter, it is stated that the said property devolved on the petitioners through succession. Pursuant to succeeding to the relevant property, the petitioners executed a partition deed on 30.11.2010, which was registered as Document No.10829/2010. The petitioners allege that the inquiry notice has been issued pursuant to a complaint made by the fifth respondent without any basis.

3. The petitioners assail the inquiry notice on three grounds. The first ground is that the third respondent did not conduct a preliminary inquiry to *prima facie* satisfy himself that a proper inquiry is necessary in the matter. The second ground is that the relevant document was registered in the year 2010, whereas an inquiry is being held in the year 2021. The third ground is that the registration authorities do not have the authority or jurisdiction to cancel a registered document as on date. The petitioners refer to the Bill seeking to introduce an amendment in this regard and contend that the relevant Bill has not been enacted into law as on date.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice for respondents 1 to 4. He submits that the third respondent has the authority to conduct an inquiry and it is always open to the petitioners to raise all objections before the said respondent.

5. Ordinarily, in judicial review, an inquiry notice is not interfered with unless the party approaching the Court is able to establish that the authority concerned has no jurisdiction. In the case at hand, the petitioners assert that the third respondent does not have the authority to cancel a registered document as on date. The pending Bill which enables cancellation under circumstances specified in the proposed Section 77A is also placed before the Court. While there is merit in the contention of the petitioners that the official respondents do not have the authority to cancel a registered document as on date, the said authority has the jurisdiction to examine whether a fraud or irregularity was committed in course of registration. For instance, the Registration



Department can examine as to whether there was impersonation, forgery or whether fake documents were the basis for registration. By contrast, a fraud or irregularity which preceded or succeeded registration cannot be gone into by the Registration Department. The petitioners have also raised the issue of delay in approaching the third respondent. It is open to the petitioners to raise this objection before the third respondent. If such objection is raised, the said objection should be taken into consideration especially because even the conduct of a proper inquiry into the matter becomes more and more difficult with the passage of time. The third respondent should also bear in mind that questions of title should be decided by the jurisdictional civil court and not by the Registration Department.

6. Subject to the above observations but without entering any findings with regard to the allegations relating to Document No.10829/2010, W.P(MD).No.18954 of 2021 is disposed of by permitting the petitioners to raise all objections before the third respondent. If such objections are raised, the third respondent shall consider the relevant objections and dispose of the pending inquiry after providing a reasonable opportunity to the petitioners and the fifth respondent within a period of three (3) months from the date of receipt of a copy of this order. Consequently, W.M.P(MD)Nos.15767 and 15769 of 2021 stand closed. There will be no order as to costs.

Sd/-

Assistant Registrar (W)

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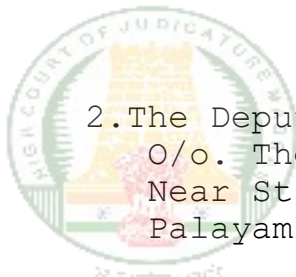
Sub Assistant Registrar(CS)

tsg/LM

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,
O/o.Inspector General of Registration,
No.100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
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2.The Deputy Inspector General of Registration,
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3.The District Registrar,
O/o.the District Registrar,
Palayamkottai,
Collectorate Campus,
Tirunelveli.

4.The Sub-Registrar,
Kovilpatti, Tuticorin District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-32800[F] dated
27/10/2021)

+1 CC to M/s.SPL.GP (SR-32848[F] dated 27/10/2021)

W.P (MD) No.18954 of 2021
26.10.2021

MA (CO)
KB (11.11.2021) 4P 7C