



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.8527 OF 2022

AND

W.M.P.NO.8436 OF 2022

Thangavel Udaiyar

... Petitioner

Vs.

1. The Inspector General of Registration,
Office of the I.G. of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2. The District Registrar,
Office of the District Registrar,
Viruthachalam,
Cuddalore District.

3. Natarajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records connected with the 2nd respondent's impugned Summon in Na.Ka.No.2777/Aa1/2020 dated 08.03.2022 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.G.Balamanikandan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for the issuance of a Writ of Certiorari to call for the entire records connected with the 2nd respondent's impugned Summon in Na.Ka.No.2777/Aa1/2020 dated 08.03.2022 and quash the same as illegal and without jurisdiction.



2. The case of the petitioner is that one Natarajan, who is the 3rd respondent herein has filed a suit in O.S.No.293 of 2003 on the file of the II Additional District Munsif, Ulundurpet and the same was ended in favour of the petitioner's father, namely Pazhanimuthu Udaiyur on 25.02.2005. Subsequently, the 3rd respondent had filed an appeal in A.S.No.98 of 2005 before the Subordinate Judge, Viluppuram, which was also dismissed by confirming the decree and judgment of the trial court by its decree dated 28.07.2010. For the very same subject matter, the 3rd respondent made a complaint dated 28.12.2020 before the 2nd respondent. On receipt of the complaint, the 2nd respondent has issued a summon against the petitioner's father in Na.Ka.No.2777/Aa1/2020. During the pendency of the proceedings, petitioner's father died on 08.11.2021. Thereafter, the 2nd respondent issued the impugned summon in Na.Ka.No.2777/Aa1/2020 dated 08.03.2022 to the petitioner. Hence, the present writ petition has been filed.

3. Mr.G.Balamanikandan, learned counsel for the petitioner submits that even though the 3rd respondent has failed in the Trial Court as well as in the Lower Appellate Court, has made a complaint dated 28.12.2020 before the 2nd respondent for the very same subject matter is not sustainable.

4. The learned Special Government Pleader for the Respondents submits that merely because the petitioner has a favourable order, that will not bar the District Registrar, who is the 2nd respondent herein, from issuing summons under Section 68(2) of the Registration Act, 1908. It cannot be presumed that the summons pertain to the very same subject matter and the petitioner cannot approach this Court at the summon stage under Article 226 of the Constitution. The act of the Courts in entertaining such petitions have been deprecated in a catena of decisions.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. Even a bare perusal of the materials reveal that the petitioner had come before this Court at the very inception questioning the summon issued under Section 68(2) of the Act. The Courts should be very circumspect while entertaining such petitions at the very threshold as otherwise it would be nothing but precluding the respondents from discharging their duty as envisaged under the Act.

7. In view of the aforesaid reasoning, this Court is not inclined to interfere with the summons. However, without expressing any opinion on the merits of the case, this Writ



Petition is disposed of granting liberty to the petitioner to canvass all the points before the 2nd respondent including the decree in the civil suit filed by the 3rd respondent and other revenue documents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sp/jd

To

1. The Inspector General of Registration,
Office of the I.G. of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar,
Office of the District Registrar,
Viruthachalam,
Cuddalore District.

+1cc to M/s.G.Balamanikandan, Advocate, S.R.No.23947

+1cc to the Government Pleader, S.R.No.24540

W.P.No.8527 of 2022
and
W.M.P.No.8436 of 2022

SSI (CO)
RLP(06/05/2022)