



W.P.No.33148 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.33148 of 2022 and
W.M.P.No.32553 of 2022

1.B.Kamesh & Kameswaran
2.B.Gokulanathan

... Petitioners

Vs

1.The District Registrar (Admin)
No.182 Bharathi Street,
Royapettah, Chennai – 600 014.

2.The Sub-Registrar of Registration,
Mylapore, Chennai – 600 028.

3.B.Santhanalaskhmi
4.B.Durgambika

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to the proceedings in No.12241/A2/2022 dated 24.11.2022 and quash the same and consequently forbear the 1st respondent from conducting enquiry with reference to the cancellation of release deed in Document No.2569/2011 on the file of the 2nd respondent.

For Petitioners : Mr.S.Kamadevan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1 & R2



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ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to the proceedings in No.12241/A2/2022 dated 24.11.2022 and quash the same and consequently forbear the 1st respondent from conducting enquiry with reference to the cancellation of release deed in Document No.2569/2011 on the file of the 2nd respondent.

2. The private respondents have filed a complaint before the 1st respondent under Section 77A of the Registration Act, 1908 (in short 'the Act') to cancel the release deed made in favour of the second petitioner by the first petitioner. Only to enquire the said complaint, the 1st respondent has issued a summon on 24.11.2022 to the petitioners, challenging the same, the present writ petition has been filed.

3. Mr.S.Kamadevan, learned counsel appearing for the petitioners would contend that, even though the power is vested with the 1st respondent under Section 77A of the Act since it is only a recent amendment which takes effect only from 06.08.2022, the release deed that has been made long years back by the first petitioner in favour of the second petitioner cannot be



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reopened.

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4. He would also submit that, it is not a settlement deed or sale deed fraudulently made and it is only a release deed between the petitioners, therefore there could be no *iota* of any ground to state that, it is a bogus or fraudulent one. When that being so, the very invocation of the power under Section 77A of the Act by the 1st respondent itself is unlawful, therefore on that ground the very summon issued by the 1st respondent to the petitioners to appear before the 1st respondent for enquiry itself is also equally unlawful.

5. Therefore, the learned counsel for the petitioners seeks indulgence of this Court against the impugned summon.

6. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 and 2 who would submit that, as per the amendment made in the Registration Act, the provision under Section 77A has been brought in, under which, if any document has been made which was considered to be a fraudulent one or bogus one in the eye of any person, who may be an aggrieved person, who can prefer a complaint before the District



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Registrar having jurisdiction under Section 77A of the Act and if any such complaint is given, the same shall be enquired into by the District Registrar by giving opportunity to both sides i.e., complainant as well as the person against whom such complaint has been given and ultimately can take a decision.

7. Merely because, a summon has been issued, the petitioners cannot presume that the 1st respondent is going to cancel the release deed made by the first petitioner in favour of the second petitioner.

8. The reason cited by the learned counsel for the petitioner to challenge the impugned summon may be the good reasons or good grounds to urge before the authority concerned viz., the 1st respondent who shall consider the same while conducting enquiry under Section 77A of the Act.

9. But that would not give rise to the petitioners to approach this Court by invoking jurisdiction under Article 226 of the Constitution to challenge the summon issued by the 1st respondent to conduct the enquiry.

10. Only on the ground of want of jurisdiction or against any statute if



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enquiry is contemplated and summons are issued by the authority concerned in those circumstances only normally the Court would interfere otherwise such summons or notices or show cause notices would not be permitted to be challenged before this Court under Article 226 in normal circumstances.

11. Here in the case in hand, the 1st respondent/District Registrar definitely has been vested with the jurisdiction to conduct an enquiry if any complaint made under Section 77A of the Act. Therefore, the summon issued to the petitioners which is part of the procedure to be adopted by the 1st respondent to conduct the enquiry as both sides have to be heard, otherwise it may be a violation of principles of natural justice, cannot be said to be an infirm or unlawful or no jurisdiction vests with the 1st respondent. Therefore, the challenge now made by the petitioners against the impugned summon dated 24.11.2022 cannot be countenanced, hence the writ petition fails, accordingly it is dismissed.

12. The learned counsel appearing for the petitioners submits that the enquiry has been posted on 16.12.2022 on that date due to some personal inconvenience, he could not appear hence he needs some other date be given



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by the 1st respondent.

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13. Taking into account of the said plea raised by the petitioners' counsel, further two weeks time is granted i.e. on or before 31.12.2022 any further date can be given by the 1st respondent to conduct the enquiry on that date, without fail the petitioner shall appear before the 1st respondent and participate in the enquiry.

14. With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Index : Yes / No

Speaking Order : Yes / No

Note : Issue order copy on **12.12.2022**

Sgl



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To

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R. SURESH KUMAR, J.

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