



W.P.No.34794 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.34794 of 2022
and W.M.P.No.34214 of 2022

P.L.Meenakshisundaram

.... Petitioner

-Vs-

1.The District Registrar (Audit)
District Registration Office
Coimbatore.

2.Nataraj

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the 1st respondent from proceeding with the cancellation of registered documents proceedings in Na.Ka.No.9949/Aa1/2021 dated 08.12.2022.

For Petitioner : Mr.A.E.Ravichandran
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus forbearing the 1st respondent from proceeding with the cancellation of registered documents proceedings in Na.Ka.No.9949/Aa1/2021 dated 08.12.2022.



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2. In respect of the document which has been registered at the concerned registering authority in Document No.13029/2018 under which the petitioner purchased the property in question it seems that the 2nd respondent had given a complaint to the 1st respondent to enquire the matter and to cancel the sale deed on the ground that, it is fraudulent or bogus one within the meaning of Section 77A of the Registration Act.

3. Pursuant to the same, summons had been issued to the petitioner on 12.09.2022 by the 1st respondent. On receipt of the same, the petitioner had given a detailed representation-cum-reply on 21.09.2022 stating that, in respect of the said land and the document in question is concerned, there is a civil suit already filed and it is pending. Therefore, once civil suit is filed and it is pending the power of the 1st respondent assumed under Section 77A of the Act is denuded. Therefore, that aspect has to be taken into account. Accordingly, the proceedings has been dropped which has been reflected in the notice dated 12.09.2022. Despite the same, once again the 1st respondent issued the second summons dated 08.12.2022. Therefore, it triggered the petitioner to move the present writ of mandamus forbearing the respondents from issuing the summons and to proceed against the petitioner pursuant to the complaint given by the 2nd respondent.



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4. I have heard Mr.A.E.Ravichandran learned counsel for the petitioner and Mr.Yogesh Kannadasan learned Special Government Pleader appearing for the 1st respondent.

5. Learned counsel for the petitioner would submit that, though such a power is vested with the District Registrar like the 1st respondent, whether any such complaint made by any party against registered document can be entertained without even seeing the veracity of the complaint as to whether it is to be entertained or is entertainable within the meaning of Section 77-A of the Act? In this regard, the learned counsel appearing for the petitioners has relied upon a Circular issued by the Inspector General of Registration (IGR) in Letter No.33760/U1/2022 dated 27.09.2022, where the IGR has passed certain guidelines. Based on such guidelines, it is for the District Registrar to take up such kind of complaints and to dispose of the same, where, if at all there is a civil suit pending consideration, normally the District Registrar would not go into that aspect of the complaint to declare a particular document as a fraudulent one or bogus one.

6. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.



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7. The issue raised in this writ petition is similar to the one which had already come up before this Court and I have passed an order in detail confronting similar situation in the matter of **"R.Banumathi and others -vs- The Inspector General of Registration and Others"** in W.P.No.34486 of 2022 dated 22.12.2022, wherein it was held as follows,

" 10. As has been pointed out by the learned counsel for the petitioners, whether a complaint given by any third party against the alleged transactions, which according to the complainant, may be a fraudulent one or forged one and while entertaining the complaint before conducting a full-fledged enquiry as to the merits of the case, whether it should be verified by the District Registrar as to whether the issue raised in the complaint involves in a civil dispute already has been pending or had been disposed or decided by a competent Civil Court and in that case what shall be done. Though this position has not been mentioned in the provisions of the Act, subsequently the Inspector General of Registration has issued the Circular dated 27.09.2022, where he has shown the five situations based on which the difference between the enquiry to be conducted under Section 68(2) and Section 77-A of the Act have been noted. Out of the five situations, the 5th situation is that the civil dispute will not be taken for enquiry, and that would be made uniformly for both the enquiry either under Section 68(2) or under Section 77-A of the Act.

11. However, as has been stated by the learned Government Advocate even to arrive at a said decision by the District Registrar whether there is a civil dispute involved and already there has been a Civil Court decree or judgment to that effect whether that has to be



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taken into account for the purpose of coming to the conclusion that, the further enquiry need not be entertained as claimed by the complainant through the complaint itself, has to be arrived at by the District Registrar only after ascertaining the prima facie facts to be projected by both sides.

12. Therefore, for the limited purpose, the District Registrar, in the considered opinion of this Court, is empowered to issue summons to the persons against whom such complaint is made under Section 77-A of the Act. Therefore if not for a full-fledged enquiry to ultimately conclude the prayer sought for in the complaint at least for deciding the issue within the meaning of clause 5 of para 13 of the Circular dated 27.09.2022, such a limited enquiry is required to be conducted by the District Registrar. Therefore, for the said purpose if summons are issued by the 2nd respondent to the persons against whom such complaint is made, here it is the petitioner, cannot be found fault with. Therefore, this Court has no hesitation to hold that, insofar as the impugned summons are concerned, it cannot be stated that it was issued without jurisdiction of the 2nd respondent and therefore the petitioner has to respond to the impugned summon and appear before the 2nd respondent and put forth their case.

13. In this regard, it is for the 2nd respondent to take up the case to be projected both by the complainant as well as the petitioners against whom such complaint has been given and to decide the same within the meaning of Section 77-A of the Act by taking into account of the situations mentioned in the Circular of the Inspector General of Registration dated 27.09.2022.



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14. With this observation, this Court feels that this writ petition can be disposed, accordingly it is disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

8. In view of the said position taken by this Court in the said order referred to above and the petitioner is also similarly placed, this Court is inclined to dispose of this writ petition with the following order.

- The petitioner is directed to respond to the impugned summons and appear before the 1st respondent and put forth his case.
- It is for the 1st respondent to take up the case to be projected both by the complainant as well as the petitioner against whom such complaint has been given and to decide the same within the meaning of Section 77-A of the Act by taking into account of the situations mentioned in the Circular of the Inspector General of Registration dated 27.09.2022.
- Till the disposal of the preliminary issue, the status quo in respect of the property in question shall be maintained.

9. With the above directions, this writ petition is disposed of. No costs.

Consequently connected miscellaneous petition is closed.

23.12.2022

Index : Yes/No
Internet : Yes/No



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To

The District Registrar (Audit)
District Registration Office
Coimbatore.



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R. SURESH KUMAR, J.

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W.P.No. 34794 of 2022

23.12.2022