

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.09.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4729 of 2013

and

M.P(MD).No.1 of 2013

R.Ganesan

... Petitioner

Vs.

1.The Inspector General of Registration,
No.120, Santhom Street,
Post Box No.4919,
Chennai -28.

2.The District Registrar (Administration),
District Registrar Office,
Thenkasi 627 811,
Tirunelveli District.

3.The Sub-Registrar,
Alangulam, Tirunelveli District.

4.Thirupudar Arjunan

... 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 Na.Ka.No.2901/௮1/2012 dated 25.06.2012 on the file of the second respondent and quash the same as illegal.

For Petitioner : Mr.A.S.Ajmalkhan

For Respondents : Mr.S.Jeyapriya (for R1 to R3)
Government Advocate
No appearance (for R4)

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein, under which are already registered settlement deed was cancelled by the second respondent herein at the instance of the fourth respondent.

2.According to the learned counsel appearing for the petitioner, he is the owner of the property in dispute and he had executed a settlement deed in favour of his wife Regina under the registered settlement deed dated 05.02.2010. The fourth respondent herein has lodged a complaint to the second respondent contenting that he is the owner of the property and the writ petitioner has no title whatsoever to execute a settlement deed in favour of his wife. The second respondent herein has entertained the said application and he has conducted an enquiry and ultimately has arrived at a finding that the settlor namely, the writ petitioner has no title whatsoever and he cannot execute a settlement deed. On arriving at the

said finding, the second respondent has proceeded to cancel the registration of the settlement deed by his impugned order dated 25.06.2012. The said order is under challenge in the present writ petition.

3.According to the learned Government Advocate appearing for respondents, the second respondent has categorically found that the petitioner has no title to the property and a criminal prosecution has already been lodged as against the writ petitioner. Though the fourth respondent has been served and represented by a counsel, there is no representation on various action.

4.I have carefully considered the submission made on either side.

5.As per Rule 55 of the Registration Rules, 1908, the registering officer has no power to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document.

6.In the present case, the document has already been registered on 05.02.2010. Thereafter, the fourth respondent has approached the second respondent for cancellation of the said document. The second respondent invoking his power under circular No.67, dated 03.11.2011 has conducted an enquiry gone and into the disputed title between the petitioner and the fourth respondent and has arrived at a finding that the writ petitioner has no title over the disputed properties. Even as per circular No.67, dated 3.11.2011, the authorities under the Registration Act, cannot have any power to adjudicate upon the title of the parties. Even assuming any power has been granted under any circular that cannot supersede the statutory rule namely Rules 55 of the Registration Rules, 1908.

7.In view of the said facts, the order impugned in the writ petition is set aside and the registration of the document on 05.02.2010 in Doc. No.626 of 2010 shall be restored in the encumbrance. If the fourth respondent has got any grievance over the execution of the settlement deed relating to the title of the property, he is at liberty to approach the competent Civil Court.

8.With the above directions, this writ petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

08.09.2022

Index : Yes / No
Internet : Yes / No
vsg

To

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R.VIJAYAKUMAR ,J.

vsg

Order made in
W.P(MD)No.4729 of 2013

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