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W.P.No.1249 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.1249 of 2023

U.Yousuf Khan

.... Petitioner

-Vs-

Deputy Inspector General of Registration
Integrated Building Complex
Kumaragiri Bypass Road
Near Kailash Manasarovar CBSE School
Near Udayapatty Power House
Ammamet, Salem – 636 014.

.... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to dispose of the appeal dated 21.11.2022 within a stipulated period on the file of the Deputy Inspector General of Registration, Salem.

For Petitioner : Mr.K.Venkatasubban
For Respondents : Mr.R.P.Muruganraja
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus to dispose of the appeal dated 21.11.2022 within a stipulated period on the file of the Deputy Inspector General of Registration, Salem.



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2. In order to cancel the documents by conducting an enquiry, the petitioner had given a representation / complaint to the District Registrar Krishnagiri in respect of Document Nos.2584 and 2383 of 2017. The said complaint / representation given by the petitioner having been considered, was rejected by the District Registrar by an order dated 13.10.2022, as against which the petitioner preferred an appeal to the respondents ie., Deputy Inspector General of Registration on 21.11.2022 and in order to consider the said appeal by the respondents and pass orders thereon, the petitioner has moved the present writ petition with the aforesaid prayer.

3. I have heard the learned counsel for the petitioner and Mr.R.P.Muruganraja learned Additional Government Advocate for the respondents.

4. Insofar as the reason cited by the District Registrar, who passed the rejection order dated 13.10.2022 it is stated that there has been no scope for conducting an enquiry under Section 68(2) of the Registration Act. Therefore, in that view of the matter, the District Registrar has rejected the plea of the petitioner.



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5. Though the said reason was stated by the District Registrar in the order that was passed on 13.10.2022, where the District Registrar has taken into account the power vested with the District Registrar under Section 77A of the Act with effect from 16.08.2022.

6. The power of the District Registrar under Section 77A of the Act when compared with Section 68(2) of the Act is wider, under which a detailed enquiry can be conducted by the District Registrar by giving an opportunity to both sides ie., the complainant and the persons against whom such complaint has been given and after hearing them, the documents in question whether has to be treated as fraudulent or bogus documents or not is to be decided and in that case, further direction can be given to the registering authority to cancel the same as bogus documents.

7. When such a power is vested with the District Registrar from 16.08.2022, while passing the order dated 13.10.2022 still the District Registrar has only stated that there has been no scope for conducting an enquiry under Section 68(2), as against which though appeal has been filed before the Deputy Inspector General of Registration, this Court feels that, instead of giving a mandamus to the Deputy Inspector General of Registration to consider the appeal dated 21.11.2022, the matter can be remitted back to the District



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Registrar concerned where the District Registrar can entertain a fresh complaint to be given in this regard by the petitioner against the documents in question under Section 77A of the Act and if such a complaint is given, the same can be decided after conducting a proper enquiry within the meaning of Section 77A of the Act.

8. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- It is open to the petitioner to give a fresh complaint under Section 77A of the Registration Act, 1908 against the persons, who, according to the petitioner, are allegedly involved in the fraudulent registration of documents which are in question.
- On receipt of such complaint, which would be filed by the petitioner, within a period of two weeks from the date of receipt of a copy of this order, the District Registrar, Krishnagiri shall entertain the complaint and after issuing notice to both the petitioner as well as the persons against whom such complaint is given, and after conducting a full fledged enquiry to that effect, orders shall be passed with regard to the veracity of the documents in question within the meaning of Section 77A of the Act within a period of 12 weeks from the date of receipt of such a complaint.



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- It is made clear that the finding given by the District Registrar in the order dated 13.10.2022 shall not be taken into account and uninfluenced by the finding given, the complaint to be given by the petitioner under Section 77-A shall be considered independently on its own merits and a decision shall be taken.
- Since the District Registrar, Krishnagiri is not a party to the writ petition, Registry is directed to mark a copy of this order to the said authority for information and further action.

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

20.01.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

1. Deputy Inspector General of Registration, Integrated Building Complex
Kumaragiri Bypass Road, Near Kailash Manasarovar CBSE School
Near Udayapatty Power House, Ammapet, Salem – 636 014.
2. The District Registrar
Krishnagiri District
Krishnagiri.



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R. SURESH KUMAR, J.

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