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W.P.No.946 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.946 of 2023

U.Jinendar Kumar

... Petitioner

-Vs-

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.
2. The Deputy Inspector General of Registration,
Registration Department,
Coimbatore.
3. The District Registrar (Administration),
Registration Department,
No.102, State Bank Road,
Gopalapuram, Coimbatore – 641 018.
4. Mrs.Neelaveni
5. Mrs.Bhuvaneshwari
6. Mrs.Parimalam
7. Ramprakash
8. Mrs.Lakshmipraba
9. Mrs.Janani
10. Eswaran
11. Mrs.Thamizharasi
12. Siluvainayagam
13. Vinoth Kumar
14. N.S.Mohan Kumar
15. M.Preetha

... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the entire records relating to the impugned proceedings of the 2nd respondent/The Deputy Inspector General of Registration, Coimbatore vide Na.Ka.No.3411/E2/2022 dated 07.12.2022 quash the same, and consequently direct the 2nd respondent to cancel the rectification deed document No.3576/1982 dated 23.09.1982 on the file of Sub-Registrar, Gandhipuram, Coimbatore District and power of Attorney Document No.1302/2017 dated 16.03.2017 and the forged Sale Deed Document No.4098/2019 dated 14.06.2019, consequential Settlement Deed Document No.8994/2019 dated 23.12.2019, Sale Deed Document No.5164/2021 dated 06.08.2021 on the file of Sub-Registrar, Ganapathy, Coimbatore District.

For Petitioner : Mr.R.Shanmugam
For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader [R1
to R3]

ORDER

The prayer sought for herein is for a writ of Certiorarified Mandamus to quash the impugned proceedings of the second respondent/The Deputy Inspector General of Registration, Coimbatore vide Na.Ka.No.3411/E2/2022 dated 07.12.2022 and consequently direct the 2nd respondent to cancel the rectification deed document



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No.3576/1982 dated 23.09.1982 on the file of Sub-Registrar, Gandhipuram, Coimbatore District and power of Attorney Document No.1302/2017 dated 16.03.2017 and the forged Sale Deed Document No.4098/2019 dated 14.06.2019, consequential Settlement Deed Document No.8994/2019 dated 23.12.2019, Sale Deed Document No.5164/2021 dated 06.08.2021 on the file of Sub-Registrar, Ganapathy, Coimbatore District.

2. The petitioner had given a complaint on 13.10.2021 against the private respondents alleging that there had been a fraudulent transaction of the property in question, which according to the petitioner belongs to him and in order to consider the said complaint, the petitioner obtained a direction by way of mandamus from this Court by order dated 15.03.2022 made in W.P.No.5782 of 2022.

3. Pursuant to the said order, the District Registrar i.e., third respondent had considered the complaint given by the petitioner and pass orders on 07.06.2022, where *inter alia* the third respondent has stated that, since there has been no express provision in the Registration Act,



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1908 [in short, 'the Act'], which empowers the Registrar to recall the said registration i.e., document in question cannot be cancelled by the Registering Authority, therefore, the parties were relegated to go before the Civil Court to redress their grievances.

4. As against which, instead of filing the appeal, the petitioner moved a further writ petition in W.P.No.17478 of 2022, where this Court passed an order on 11.07.2022 directing the petitioner to file an appeal within four weeks before the Inspector General of Registration and accordingly, appeal has been filed by the petitioner before the second respondent, who having considered the said appeal has passed an order on 07.12.2022, which is impugned herein.

5. Assailing the said order, Mr.R.Shanmugam, learned counsel appearing for the petitioner would submit that, though the petitioner had given all necessary documents for consideration both before the third respondent as well as before the second respondent to establish that, fraudulent transaction had taken place in respect of the property in question, therefore, the documents registered by the Registering



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Authorities ought to have been cancelled and even though such power has been vested with the District Registrar by virtue of the amendment made in the Registration Act, 1908 with effect from 16.08.2022, still the second respondent instead of remitting the matter in the appeal to the third respondent for reconsideration under Section 77-A of the Act, has confirmed the said order through the impugned order dated 07.12.2022 and once again reiterated that the petitioner has to go before the Civil Court to establish his right and to get redressal of his grievances.

6. Therefore, the said approach of the second respondent in once again relegating the party i.e., petitioner to the Civil Court despite the power having been vested with the District Registrar i.e., third respondent, is unlawful and therefore, on that ground itself, the impugned order is liable to be interfered with.

7. On the other hand, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 3 would submit that, when the original order was passed by the third respondent dated 07.06.2022, the Act was not amended and therefore, at that time, the third



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respondent did not have the power to entertain the complaint of the petitioner to the extent of cancelling the document in question, therefore, such order was passed by the third respondent and since the appeal filed by the petitioner was in continuation of the original order passed by the third respondent dated 07.06.2022, accordingly, the second respondent also on merits having considered the same confirmed the said order as within the meaning of Section 68 (2) of the Act, the said appeal was decided, such a course of action was adopted by the second respondent, therefore, the learned Special Government Pleader appearing for the official respondents wants to sustain these orders.

8. In view of the orders going to be passed in this writ petition, notice to the private respondents is hereby dispensed with.

9. Insofar as the power of Registering Authorities especially the District Registrar as well as the Inspector General of Registration is concerned with regard to the declaration of documents as a fraudulent one or bogus one and a consequential action to be taken by the Registering Authority to cancel such documents is concerned that power



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has been vested with these Authorities only by virtue of the amendment in the Registration Act, which has come into effect only from 16.08.2022.

10. However, when the second respondent passes order on 07.12.2022 since the Act has got amended and the Section 77-A power is vested with the third respondent, the matter could have been very well remitted back by the second respondent instead of passing the present impugned order directing the party i.e., petitioner to go before the Civil Court.

11. As on date, the party need not go to Civil Court for get redressal of his grievance against the alleged fraudulent or bogus documents already been registered by the Registering Authority as that power now has been vested with the District Registrar with effect from 16.08.2022, therefore, that approach of the second respondent in confirming the order passed by the third respondent and directing the petitioner to go before the Civil Court cannot be justifiable. Hence, this Court is inclined to dispose of this writ petition with the following



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orders:

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- ◆ That the impugned order is set aside and the matter is remitted back to the third respondent for reconsideration.
- ◆ While reconsidering the same, the third respondent shall consider the complaint given by the petitioner on 13.10.2021 within the meaning of Section 77-A of the Act and accordingly after giving an opportunity of being heard to both the petitioner as well as the private respondents or the persons against whom such complaint was given by the petitioner decide the same on merits and in accordance with law within a period of twelve(12) weeks from the date of receipt of a copy of this order.

With these directions, this writ petition is disposed of. No costs.

12.01.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
mp



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To

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Chennai – 600 028.
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R. SURESH KUMAR, J.

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