



W.P.No.1154 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.1154 of 2023
and W.M.P.No.1173 & 1174 of 2023

K.Tamilarasi

.... Petitioner

-Vs-

1.The District Registrar
Sub Registrar Office
Gobichettipalayam
Erode District.

2.The Sub Registrar
The Office of Sub-Registrar
Thukanayakanpalayam
Gobichettipalayam Taluk
Erode District.

4.T.M.Kaliannan

5.Radhamani

6.Sekar_

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records relating to the impugned settlement deeds executed by the petitioner's husband T.M.Kaliannan / 4th respondent in favour of the 6th respondent / Sekar in Doc.No.685 of 2022 dated 24.03.2022 on the file of the 2nd respondent office and another Doc.No.2624 of 2022 dated 21.06.2022 on the file of the 3rd respondent office



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and to quash the same as illegal without jurisdiction, non-est in law and against the public policy.

For Petitioner : Mr.Ma.Pa.Thangavel
For Respondents : Mrs.N.Senthil Selvi
Government Advocate – for RR 1 to 3

Notice dispensed with – RR 4 to 6

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the entire records relating to the impugned settlement deeds executed by the petitioner's husband T.M.Kaliannan / 4th respondent in favour of the 6th respondent / Sekar in Doc.No.685 of 2022 dated 24.03.2022 on the file of the 2nd respondent office and another Doc.No.2624 of 2022 dated 21.06.2022 on the file of the 3rd respondent office and to quash the same as illegal without jurisdiction, non-est in law and against the public policy.

2. Even though the said prayer has been sought for in this writ petition, Mr.Ma.Pa.Thangavel learned counsel for the petitioner on instructions would submit that, in order to cancel the settlement deed which is in question, as referred in the prayer, on behalf of the petitioner a notice has been given through his lawyer on 26.04.2022 to the official respondents to cancel the deed



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in question and since that was made sometime in April 2022 ie., prior to the amendment made in the Registration Act, 1908 and the amendment came into effect only on 16.08.2022, the learned counsel submits that, the notice dated 26.04.2022 can be treated as a complaint given by the petitioner within the meaning of Section 77A of the Act. That apart, the learned counsel for the petitioner wants to give additional complaint in respect of the subsequent documents also which have been, according to the petitioner, registered by the registering authorities allegedly by fraud and therefore, if such additional complaint is given, that can also be directed to be considered by the official respondents ie., the 1st respondent and if that kind of direction is given, the petitioner would be satisfied.

3. Heard Mrs.N.Senthilselvi learned Government Advocate. In view of the order that is going to be passed, notice to the private respondents is hereby dispensed with.

4. Though a legal notice was issued on behalf of the petitioner on 26.04.2022 to cancel the documents in question, at that time there was no power vested with the registering authorities including the District Registrar to cancel the same. Assuming if it is fraudulent document, as the said power has come to the registration department only with effect from 16.08.2022, the



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learned Additional Government Pleader would submit that, the legal notice can be treated as a complaint under Section 77A of the Act on behalf of the petitioner and that apart, if any additional complaint is given by the petitioner that can also be jointly considered and a decision could be taken after hearing both sides.

5. Considering the said submissions of the learned counsel for both sides, especially the stand taken by the learned Additional Government Pleader, this Court is inclined to dispose of this writ petition with the following order.

“That there shall be a direction to the 1st respondent to consider the legal notice issued on behalf of the petitioner dated 26.04.2022 as a complaint under Section 77A of the Registration Act along with any other/additional complaint, given by the petitioner within a period of two weeks from the date of receipt of a copy of this order, and decide the same on merits and in accordance with law after giving an opportunity of being heard to the petitioner as well as the private respondents and pass final orders thereon within a period of eight weeks from the date of receipt of such additional complaint as indicated above.



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

Consequently, connected miscellaneous petitions are closed.

12.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST

To

1.The District Registrar
Sub Registrar Office
Gobichettipalayam
Erode District.

2.The Sub Registrar
The Office of Sub-Registrar
Thukanayakanpalayam
Gobichettipalayam Taluk
Erode District.



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R. SURESH KUMAR, J.

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W.P.No. 1154 of 2023

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