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W.P.No.1098 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.1098 of 2023 and
W.M.P.Nos.1160 & 1162 of 2023

1.K.Ponnusamy
2.Sumathi

... Petitioners

Vs

- 1.The Inspector General of Registration,
Tamil Nadu Registration Department,
No.100, Registration Office Complex,
Santhome High Road, Chennai – 28.
- 2.The District Registrar (Administration),
District Registrar Office,
South Chennai Registration District,
Companied Commercial Tax & Registration Offices
Complex, (Ground Floor),
Veterinary Hospital Road,
Panpet, Nandanam, Chennai – 35.
- 3.The Sub Registrar,
Kundrathur, O/o.Sub Registrar,
Kundrathur, South Chennai.

4.K.S.Venu

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings in No.20600/E2/2022 dated 25.11.2022 on the file of the 2nd respondent herein and quash the same.



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For Petitioner : Mr.V.Illanchezian
For Respondents : Mr.Yogesh Kannadasan
Spl. Govt. Pleader for R1 to R3

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the records relating to the proceedings in No.20600/E2/2022 dated 25.11.2022 on the file of the 2nd respondent herein and quash the same.

2. In respect of Document No.15041/2012 registered on the file of the Sub Registrar, Kundrathur, a complaint has been given by the 4th respondent to the 2nd respondent alleging that, the document is a fraudulent or bogus document, therefore in order to cancel such document, a complaint was given on 27.10.2022. Having entertained the said complaint under Section 77-A of the Registration Act, the 2nd respondent has issued a summon on 25.11.2022 directing the parties including the petitioners to give their defence within 15 days. Aggrieved over the same, challenging the said summon, the present writ petition has been filed.

3. Heard Mr.V.Illanchezian, learned counsel appearing for the petitioner who would submit that, the 4th respondent did not have any



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locus standi even to file a complaint before the 2nd respondent, therefore on that ground the very complaint itself ought not to have been entertained by the 2nd respondent, hence the summon issued by the 2nd respondent to proceed further in the complaint is untenable, accordingly the learned counsel for the petitioners seeks indulgence of this Court.

4. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 3. In view of the order going to be passed in this writ petition, notice to the 4th respondent is hereby dispensed with.

5. The learned Special Government Pleader appearing for the official respondents has pointed out that, after the amendment has been made in the Registration Act by inserting various provisions including Section 77-A of the Act, such power is vested with the District Registrar concerned to entertain the complaint being made by aggrieved parties against any document alleging that, those documents are fraudulent or bogus documents to cancel it and if any such complaint is given that has to be entertained and after enquiry orders to be passed by the Registrar concerned, therefore such kind of quasi judicial power vests in the District



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Registrar since being exercised by the 2nd respondent by issuing the summon, the same cannot be challenged by the petitioner without any plausible reason, therefore the learned Special Government Pleader seeks dismissal of this writ petition.

6. As has been rightly pointed out by the learned Special Government Pleader appearing for the official respondents, the 2nd respondent having entertained a complaint given by the 4th respondent under Section 77-A of the Act against the document in question issued a summon to the parties including the petitioners, therefore if at all the petitioners have got any valid defence to sustain the document in question and its registration, they can very well make such defence by way of reply to the 2nd respondent, without which or instead of that since the petitioners have approached this Court by filing the present writ petition challenging the very summon itself, this Court has no hesitation to hold that, the writ petition cannot be entertained and therefore the following orders are passed in this writ petition:

That it is open to the petitioners to file a reply taking all defence including a defence that the 4th respondent did not have any *locus standi* to file such a complaint to cancel



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the document in question and such defence shall be made by way of filing reply to the complaint before the 2nd respondent within a period of 15 days from the date of receipt of a copy of this order. On receipt of such reply or after completing two weeks period, it is open to the 2nd respondent to enquire the matter and decide the same on merits and in accordance with law thereafter within a period of eight weeks.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

19.01.2023

Index : Yes/No
Speaking Order : Yes/No
Sgl
To

1. The Inspector General of Registration,
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2. The District Registrar (Administration),
District Registrar Office,
South Chennai Registration District,
Companied Commercial Tax & Registration Offices
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R.SURESH KUMAR, J.



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