



W.P.No.1563 of 2023

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in the Proceedings in Na.Ka. No.1881 / A2 / 2022 dated 28.11.2022 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.R.P.Muruganraja
Government Advocate -for RR 1 to 3
Notice dispensed with – for RR 4 to 10

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the records in the Proceedings in Na.Ka. No.1881 / A2 / 2022 dated 28.11.2022 on the file of the 3rd respondent and quash the same.

2. The private respondents seems to have given a complaint to the 2nd respondent District Registrar pertaining to the documents which have been registered sometime in the year 2001 ie., a sale deed as well as settlement deed with Document Nos.2014 of 2001, 9327 of 2014 and 9328 of 2014 on the file of the 3rd respondent. Having receipt of the said complaint under Section 77-A of the Registration Act, 1908, the 2nd respondent issued summons to the petitioner through the communication dated 28.11.2022 asking the petitioner to appear before the 2nd respondent with necessary documents in support of his case that



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the documents in question are genuine documents. However, aggrieved over the same, ie., the summons dated 28.11.2022 issued by the 2nd respondent, the petitioner has filed the present writ petition with the aforesaid prayer.

3. Assailing the impugned summon, Mr.Rajarajan learned counsel for the petitioner would submit that, the documents in question were registered in the year 2001. Therefore, after 21 years complaint has been given with ulterior motive. Even though 7 or 8 persons have been mentioned as complainants, except one person, others have not signed the complaint and the identity of that one person who has signed is also not known. When that being so, the genuinity of the complaint itself is in question and therefore, based on such complaint the 2nd respondent ought not to have issued the summon to the petitioner and the complaint need not be taken into account under Section 77-A of the Act and hence on this ground, the learned counsel for the petitioner seeks the indulgence of this Court to set aside the impugned summon.

4. Heard Mr.R.P.Muruganraja, learned Government Advocate appearing for the official respondents. In view of the order that is going to be passed in this writ petition, notice to the private respondents is dispensed with.



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5. I am not impressed with the said submission made by the learned counsel for the petitioner for the reason that, by virtue of Section 77-A of the Act, the power is now vested with the District Registrar concerned with effect from 16.08.2022 under which, whatever complaint they receive from any aggrieved party pertaining to any transaction which has already been registered in the concerned Sub Registrar Office coming under the jurisdiction of the District Registrar concerned alleging that, based on fraudulent transaction or bogus transaction, the properties have been encumbered, then such complaint has to be necessarily enquired into by the District Registrar, of course after giving notice to both the persons against whom such complaint has been given and the persons who have given such complaint and after conducting an enquiry, the District Registrar has to come to a conclusion as to whether the document in question is genuine or not genuine or fraudulent or forged one or not.

6. When that kind of power is vested with the 2nd respondent, it is the duty cast upon them under the Statute. Therefore, no mandamus can be issued against any authority not to do any duty cast upon them under the provisions of any Statute. Since it is a settled proposition of law, this Court is not inclined to entertain this writ petition based on the grounds that have been projected by the learned counsel for the petitioner against the impugned summon.



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7. If at all the petitioner has got any presentable case or defence in support of the documents in question, he can very well project such grounds before the 2nd respondents by way of a written reply along with the supporting documents and in this regard the genuineness or veracity of the complaint given against the petitioner also can be questioned by the petitioner and if such defence is taken, the same also can be considered by the 2nd respondent District Registrar and ultimately a decision can be taken on merits by the said authority.

8. Therefore, the present writ petition, at the threshold, is not maintainable and hence it is liable to be rejected. Accordingly it is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is also dismissed. However, if the enquiry is not completed, the 2nd respondent can decide the complaint and pass final orders, preferably within a period of 12 (twelve) weeks from the date of receipt of the defence statement or documents from the petitioner as well as any other documents to be filed by the complainant's side.

24.01.2023

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



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To

WEB COPY

- 1 The Inspector General of Registration
Office of Registration, Santhome
Chennai.
- 2 The District Registrar
Office of Registration, Tirupatthur
Tirupathur District.
- 3 The Joint - II Sub - Registrar
Sub Registrar Office, Tirupatthur
Tirupathur District.



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R. SURESH KUMAR, J.

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