



W.P.No.1223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1223 of 2022

and

W.M.P.Nos.1307 of 2022 & 23310 of 2023

1.M.Thenmozhi
2.P.Ragupathy
3.J.L.Arunraja
4.R.Sasikala
5.P.Kaliappan
6.M.C.Rajendran
7.M.Manickkavasagam

...Petitioners

Vs

1.The Inspector General of Registration,
Santhome,
Chennai – 600 028.

2.The Deputy Inspector General of Registration,
Chennai Zone,
Guindy, Chennai – 600 032.

3.The District Registrar,
Administration, Chennai.

4.The Sub-Registrar,
Villivakkam,
Chennai.



W.P.No.1223 of 2022

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5.M/s.Wooltop Designs Pvt. Ltd.,
Rep. by its Director,
H.E.Abdul Azeez,
No.F/41-A, Anna Nagar East,
Chennai – 600 102.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the order impugned in Proceedings No.2955/Aa1/2020 dated 30.07.2021 on the file of the second respondent and quash the same.

For Petitioners	: Mr.S.Doraisamy
For R1 to R4	: Mr.T.Arunkumar Additional Government Pleader
For R5	: Mr.V.P.Sengottuvel Senior Counsel for Ms.K.Indupriya

ORDER

The order dated 30.07.2021 issued by the second respondent Deputy Inspector General of Registration is sought to be quashed in the present writ petition.



W.P.No.1223 of 2022

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2.The writ petitioners are doing textile business. The petitioners entered into a sale agreement with the owners of the subject property and such sale agreements were registered before the Sub-Registrar concerned. There was a SARFAESI proceedings initiated by the secured creditor/Bank and the matter had gone to the Debt Recovery Tribunal. Through the Deputy Recovery Tribunal, the Authorized Officer subsequently sold the property in favour of the 5th respondent, in other words, the 5th respondent is the auction purchaser of the subject property. Pursuant to the auction sale, the sale certificate issued by the authorized officer was registered on 29.03.2010 under the Registration Act.

3.That being so, the petitioners have registered 12 sale agreements initially and the said sale agreements were further extended for a further period of another one year by executing 12 more sale agreements. Totally, 24 sale agreements were registered.

4.The 5th respondent filed a complaint to cancel those sale agreements on the ground of fraud. The District Registrar rejected the



W.P.No.1223 of 2022

complaint filed by the 5th respondent. Thus, the 5th respondent filed an appeal before the Deputy Inspector General of Registration, who in turn conducted enquiry by affording an opportunity to all the parties and passed an order as under:

“The Sub Registrar Villivakkam is hereby ordered:

(1) To add a note in the Index-II of all the above said 24 Agreement Deeds, as detailed below, so that such a note gets reflected in the Encumbrance Certificate of the property concerned.

Note: As per DIG Chennai Order No.2955/B1/2020 dated 30.07.2021 this document has been registered by false statement suppressing the Debt Recovery Tribunal's proceedings in OA.No.461 & 462 of 1999 and is also barred by limitation.

(2) To add the above note as a footnote in the copies of the said 24 documents and to sign.

(3) The said 24 documents shall not be acted upon as a parent document for any further registrations, since the same have been registered by an act of omission of facts.”



W.P.No.1223 of 2022

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5.The learned counsel appearing for the petitioners mainly contended that the first respondent has no authority to cancel or to pass such an order under the provisions of the Registration Act. The first respondent has exceeded his jurisdiction by declaring that the registered sale agreements shall not be acted upon as a parent document and therefore, the impugned order is liable to be set aside.

6.The learned senior counsel appearing on behalf of the 5th respondent objected the said contention by stating that the registered documents are not cancelled through the impugned order. It is only an entry made in the encumbrance certificate by exercising the powers conferred under Section 68(2) of the Registration Act. Thus, there is no infirmity and the writ petition is to be rejected.

7.The learned Additional Government Pleader appearing for the respondents 1 to 4 relying on the counter affidavit filed by the Sub-Registrar made a submission that the Registering Officer concerned is not liable since



W.P.No.1223 of 2022

there is a substance in the claim of the 5th respondent. In view of the entries regarding 24 sale agreements made, the encumbrance certificate is to be corrected and necessary footnotes are to be added with reference to the registered sale agreements for the purpose of providing clarity in respect of the title. Such footnotes are falling within the ambit of Section 68(2) of the Registration Act in the interest of public since the encumbrance certificate is a public document and at no circumstances, the public should be misled on account of wrong projection of facts in the encumbrance certificate. Thus, the first respondent had directed the Sub-Registrar to add footnote in the encumbrance certificate and the registered documents are not cancelled and therefore, the writ petition is to be rejected.

8.In respect of the dispute between the petitioners and the 5th respondent, the respondents have stated that the parties are at liberty to approach the civil court of law for the purpose of resolving the issue.

9.As rightly pointed out by the learned counsel for the petitioners, the authorities competent have no powers under the Registration to cancel the



W.P.No.1223 of 2022

documents prior to the amendment under Section 77A of the Registration

Act. In the present case, the complaint was submitted prior to the amendment which came into effect i.e., 16.08.2022. However, the respondents 2 and 3 have not cancelled the sale agreements registered under the Registration Act. Perusal of the order passed by the second respondent unambiguously portrays that the direction was issued by the Sub-Registrar, Villivakkam to add a footnote in annexure to all the 24 agreements registered, so that such a note gets reflected in the encumbrance certificate of the property concerned. The directions issued to that extent is permissible and well within the powers conferred under Section 68(2) of the Registration Act. The second direction also falling under the ambit of the first direction and there is no infirmity.

10.Regarding the third direction issued by the second respondent that "the said 24 documents shall not be acted upon as parent document for any further registrations, since the same have been registered by an act of omission of facts" is concerned, the authority has exceeded his powers by providing an indication that the document shall not be acted upon as a



W.P.No.1223 of 2022

parent document. Such findings are unnecessary since whether a sale agreement will be relied as a parent document or the parties are holding any other title document is unconnected with the powers of the Registering Authority or the Appellate Authority, more so, the sale agreement at no circumstances be construed as title document in normal circumstances. Thus, the directions issued in Clause (3) is unwarranted and therefore, the said Clause alone is to be set aside. The reliance to be placed based on the registered document is the prerogative of the parties concerned and the authority competent under the Registration Act cannot declare the nature of document registered which would cause prejudice to either of the parties.

11. That being the factum, the directions issued by the Deputy Inspector General of Registration in Proceedings No.2955/Aa1/2020 dated 30.07.2021 stands confirmed in respect of direction Nos.1 and 2 are concerned. As far as the third direction i.e., "the said 24 documents shall not be acted upon as parent document for any further registrations, since the same have been registered by an act of omission of facts" alone is quashed. The parties are at liberty to work out their remedy before the civil court of



W.P.No.1223 of 2022

law by establishing their rights in the manner known to law.

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12.With this liberty, the writ petition stands allowed in part. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2023

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Index:Yes

Speaking order

Neutral Citation:Yes

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W.P.No.1223 of 2022

S.M.SUBRAMANIAM, J.

cse

W.P.No.1223 of 2022

28.08.2023