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W.P.No.2354 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2354 of 2023
and WMP.No.2423 of 2023

1. P.Mohan Kumar
2. Rani
3. D.Senthil Kumar

... Petitioners

-Vs-

1. The District Registrar,
(Administration),
O/o. Integrated Registration Office Complex,
No.1/529, Neriperuchhal Village,
Poolavapatti Post,
Tiruppur District – 641 602.

2. Manju Nagaraj
3. Murugesan
4. Sivakumar
5. A.Duraiyan
6. Thangavel
7. Raju
8. G.Navaneetha Krishnan
9. R.Seniappan
10. V.Paramasivam
11. P. Palanisamy
12. N.Subramanian
13. G.Ramanathan
14. S.Damodharan
15. K.Soundararajan
16. Gnana Soundara Moorthy



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17. N.Fathima Mary

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings made in Na.Ka.No.3896/B5/2022 dated 16.12.2022 issued by the 1st respondent against the petitioners quash the same and consequently forbear the 1st respondent from continuing proceedings on the basis of the complaint dated 18.06.2022 made by the 2nd respondent against the petitioners.

For Petitioners : Mr.G.Ethirajulu

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader [R1]

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to quash the impugned proceedings made in Na.Ka.No.3896/B5/2022 dated 16.12.2022 issued by the 1st respondent against the petitioners and consequently forbear the 1st respondent from continuing the proceedings on the basis of the complaint dated 18.06.2022 made by the 2nd respondent against the petitioners.

2. The second respondent had given a complaint against the petitioners before the first respondent pertaining to a document already



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been registered in the concerned Registering Authority to declare it as a fraudulent document and to cancel the same as a sequel within the meaning of Section 77-A of the Registration Act, 1908 [in short, 'the Act'].

3. Having entertained the said complaint, the first respondent had issued a notice on 16.12.2022 directed the petitioners and the complainant as well as the other persons against whom also such complaint seems to have been made to appear before the first respondent with necessary documents to defend their case on 27.12.2022.

4. In respect of the said communication, it is the contention of the learned counsel appearing for the petitioners that the said communication itself was received by the petitioners only in the first week of January, 2023, therefore, before which, since the date of hearing had been fixed, there was no opportunity to the petitioners to put forth his case. Despite that, the petitioners though had given a written reply whether the same has been taken into account or not also is not known to the petitioners. When that being so, if any final order is passed by the first respondent



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without enquiring the matter by conducting the full fledged enquiry by giving an opportunity of being heard to both sides i.e., petitioners as well as the complainant, then there would be a chance of miscarriage of justice at the hands of the first respondent. Therefore, at this juncture, the petitioners have moved the present writ petition challenging the impugned notice dated 16.12.2022.

5. Heard Mr.G.Ethirajulu, learned counsel appearing for the petitioners, who having reiterated the aforesaid would seek indulgence of this Court.

6. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the first respondent, who would submit that, if at all the petitioners had not appeared on 27.12.2022 because of belated receipt of the said impugned summon, certainly a further date would be given to the petitioners, where an opportunity of being heard also would be given to the petitioners and it is open to the petitioners to produce all documents pertaining to the land in question and after hearing the petitioners as well as the other parties only, a final decision would be



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taken by the first respondent on merits and in accordance with law within the meaning of Section 77-A of the Act, he contended.

7. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

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

9. Since the power is vested with the first respondent District Registrar under Section 77-A of the Act to entertain and enquire any complaint given by any aggrieved parties over any document registered already as a fraudulent or bogus document and in this regard, within the meaning of Section 22-B of the Act, if any document can be decided as a fraudulent document after conducting an enquiry, such kind of enquiry can very well be conducted by the District Registrar concerned and in this context, the second respondent's complaint having been entertained the first respondent has issued the impugned summon dated 16.12.2022,



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whereby, a date has been fixed for hearing. However, in view of the belated serving of notice, the petitioners could not appeared on the date, however, they have given a reply to that effect.

10. In that view of the matter, this Court feels that a direction can be given to the first respondent to give a fresh opportunity to the petitioners as well as the others, who are the private respondents herein before deciding the complaint given by the second respondent and accordingly the following orders are passed:

- ◆ That there shall be a direction to the first respondent to issue a fresh summon to the petitioners and the private respondents against whom complaint has been made by the second respondent and in the said summon to be issued, a date can be fixed for hearing and on that date, the petitioners shall appear and put forth their case by producing the relevant documents in support of their contention that the document in question is a genuine document.
- ◆ After giving such an opportunity of being heard to both the petitioners as well as the complainant and other private respondents, a final order can be passed by the first respondent



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within the meaning of Section 77-A of the Act within a period of
eight(8) weeks from the date of receipt of a copy of this order.

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

Connected miscellaneous petition is closed.

01.02.2023

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

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R. SURESH KUMAR, J.

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