



W.P.No.3165 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3165 of 2023
and W.M.P.No.3221 of 2023

A.C.R.Rajganesan

.... Petitioner

-Vs-

1.Inspector General of Registration
Office of the I.G. Of Registration
Santhome, Chennai 600 004.

2.The District Registrar (Administration)
District Registrar Office, Chennai South
Integrated Building for Offices of the
Commercial Taxes and Registration
Department, Ground Floor
Veterinary Hospital Road, Fanapet
Nandanam, Chennai 600 035.

3.Sarath Kakumanu

.... 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 records in Notice I in No. 19065 / E2 / 2022 dated 8.12.2022 on the file of District Registrar (Administration) office south chennai (Second Respondent) and to quash the same as not sustainable under the Registration Act (amended Act) Tamilnadu Act No. 41 of 2022.

For Petitioner : Mr.V.Ramamurthy



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For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the records in Notice I in No. 19065 / E2 / 2022 dated 8.12.2022 on the file of District Registrar (Administration) office south chennai (Second Respondent) and to quash the same as not sustainable under the Registration Act (amended Act) Tamilnadu Act No. 41 of 2022.

2. In respect of the two documents viz., Document No.2222 and 2223 of 2005 on the file of the Sub Registrar Office, Adyar, it seems that a complaint had been given by the 3rd respondent to the 2nd respondent under Section 77-A of the Registration Act, 1908, to enquire into the matter and take action against the petitioner to declare the documents in question as fraudulent / bogus documents and consequently to give a direction to the registering authority to cancel it.

3. Having entertained the said complaint given by the 3rd respondent, the 1st respondent had issued a summon on 08.12.2022 to the petitioner directing the petitioner to produce the documents in support of his case and give his reply in writing within 15 days. Aggrieved over the same, challenging the summons dated 08.12.2022 the petitioner has moved the present writ petition with the aforesaid prayer.



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4. Heard Mr.V.Ramamurthy, learned counsel for the petitioner, who would submit that, insofar as the petitioner's land is concerned, it is no way connected with the land which is said to have been exploited by some third party as per the complaint given by the 3rd respondent, secondly the 3rd respondent does not have any locus to make such complaint against the petitioner pertaining to those documents and also, if at all any summons is issued as stated in the impugned communication, pursuant to which a fair opportunity must be given to the parties including the petitioner to put forth their case including personal hearing, where the petitioner or his representative is ready and willing to put forth his case with all defences to sustain that the documents in question are not fraudulent / bogus documents and are genuine documents. For these reasons, apprehending that these kind of issues even though raised, may not be considered in proper perspective by the 2nd respondent District Registrar, the petitioner has chosen to file this writ petition invoking the extraordinary jurisdiction under Article 226 of the Constitution.

5. Per contra, Mr.P.Sathish learned Additional Government Pleader appearing for the official respondents would submit that, after the amendment having been made in the Registration Act by insertion of Section 77-A, if any complaint is raised alleging that the document in question is a fraudulent / bogus



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document within the meaning of Section 22-B of the Act, such complaint necessarily has to be entertained by the 2nd respondent District Registrar and notice or summons to be issued to the parties ie., the complainant as well as the persons against whom such complaint is given and after giving an opportunity of being heard, that issue has to be decided by the District Registrar on merits. Therefore, when such a statutory duty is cast upon the District Registrar who issues summons to do the duty, the same cannot be curtailed or thwarted by any attempt, as has been made by the present petitioner in this writ petition. Therefore, the learned Additional Government Pleader wants to sustain the summons dated 08.12.2022 and to go ahead with the enquiry to be conducted by the 2nd respondent on the complaint given by the 3rd respondent.

6. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

7. As has been rightly pointed out by the learned Additional Government Pleader that, it is the statutory duty cast upon the 2nd respondent / District Registrar under Section 77A of the Act, where such a duty and power is given to the District Registrars to entertain such complaints making allegation that particular document is a fraudulent / bogus document within the meaning of Section 22-B of the Registration Act, and if so such complaint necessarily has to



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be entertained and after giving due opportunity to both sides and after conducting an enquiry as contemplated, then only a decision has to be taken by the District Registrar.

8. Only in that direction, the impugned summons have been issued as an initial step to the petitioner directing the petitioner to file his reply / defence along with supporting documents in support of his case and when that summons has been issued on 08.12.2022, the same has now been questioned by the petitioner. The three grounds on which the petitioner challenges the impugned summons have been indicated herein above.

9. However, this Court feels that insofar as those three grounds / reasons urged by the learned counsel for the petitioner are concerned, all these grounds can be agitated before the 2nd respondent and if these issues are specifically agitated before the 2nd respondent by way of written submission or written reply to be given by the petitioner, the same shall be objectively considered by giving fair opportunity of being heard to both sides by the 2nd respondent District Registrar and thereafter a decision can be made on merits and in accordance with law within a time frame and that would meet the ends of justice.

10. In view of the above, this Court is inclined to dispose of this writ petition with the following order.



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- It is open to the petitioner to file a written submission or reply with supporting documents raising proper defence or reply regarding the three reasons stated herein above.
- If any such reply is filed with supporting documents, the same shall be considered objectively by the 2nd respondent and after giving a fair opportunity of being heard to the petitioner as well as the 3rd respondent who is the complainant, a decision can be taken by the 2nd respondent on the complaint given by the 3rd respondent against the petitioner pertaining to the documents in question, on merits and in accordance with law within a period of twelve (12) weeks thereafter.

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

Consequently, connected miscellaneous petition is closed.

07.02.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

Note : Issue order copy by 15.02.2023

To



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Office of the I.G. Of Registration
Santhome, Chennai 600 004.

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R. SURESH KUMAR, J.

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