



W.P. No.3643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.3643 of 2023
and
W.M.P.No.3728 of 2023

1.R.Pichai

2.P.Selvaraj

3.S.Bernadshaw

... Petitioners

Vs.

1.The District Registrar (Administration),
Kallakurichi,
Kallakurichi District.

2.A.Pankiras

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the order of the 1st respondent dated 27.12.2022 in Na.Ka.No.6224/Aa4/2022 and quash the same.

For Petitioners : Mr.K.Selvaraj

For Respondent : Mr.R.P.Muruganraja
Government Advocate for R1



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ORDER

The prayer sought for herein is for a writ of Certiorari calling for the records relating to the order of the 1st respondent dated 27.12.2022 in Na.Ka.No.6224/Aa4/2022 and quash the same.

2. In respect of Documents No.3277/2016 and 5289/2019 registered at Sub Registrar Office at Kallakurichi, a complaint seems to have been filed by the private respondent against the petitioners to declare those documents as fraudulent documents and to cancel the same as a consequential relief.

3. Having entertained the said complaint, the 1st respondent District Registrar issued a show cause notice on 27.12.2022 to the petitioner to show cause as to why the documents shall not be canceled and such show cause to be made within 15 days. Aggrieved over the same, the present writ petition has been filed.

4. Heard Mr.K.Selvaraj, learned counsel appearing for the petitioners, who would submit that, the documents were registered in 2016 and 2019 well before the Section 77-A of the Registration Act,



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1908 come into force, therefore in that context already a suit was also filed before the Civil Court which is pending, unmindful of these developments and the legal position, according to the learned counsel for the petitioners, since the 1st respondent issued the summon, which is impugned herein, that would not stand in the legal scrutiny, therefore it shall be quashed, he contended.

5. Heard Mr.R.P.Muruganraja, learned Government Advocate appearing for the 1st respondent and in view of the order that is going to be passed in this writ petition, notice to the 2nd respondent is dispensed with.

6. The learned Government Advocate for the 1st respondent would submit that, the power vested with the District Registrar under Section 77-A is the statutory power, therefore the statutory duty is cast upon him which he has to undertake and execute such duty, therefore it cannot be curtailed by the orders of this Court, hence the challenge made against the impugned summon would not be sustained, he contended.

7. I have considered the said submissions made by the learned



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counsel for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Government Advocate for the 1st respondent, it is the statutory duty cast upon the 1st respondent District Registrar to entertain any complaint given by aggrieved party under Section 77-A of the Registration Act and after due enquiry by giving opportunity to both sides a decision can be made thereon within the meaning of Section 77-A read with Sections 22-A, 22-B of the Act, when that being so, the impugned summon issued in this regard by the 1st respondent cannot be interfered with by this Court.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That it is open to the petitioners to give reply to the show cause which is impugned herein within two weeks period from the date of receipt of a copy of this order, where, whatever the input and documents to be supplied by the petitioners can also be supplied and on receipt of the same, after giving an opportunity of being heard to both the



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petitioner as well as the complainant, the complaint given by the private party can be decided on merits and in accordance with law, of course within the meaning of Section 77-A of the Act, within eight weeks thereafter.

(ii) It is made clear that, the copy of the complaint as well as the documents if any relied upon by the complainant also may be furnished to the petitioner and on receipt of such documents if any within two weeks time, the petitioner shall give reply as indicated above.

10. With these directions, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

09.02.2023

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

The District Registrar (Administration),
Kallakurichi,
Kallakurichi District.

R.SURESH KUMAR, J.



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