



WEB COPY



W.P.No.3902 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3902 of 2023

K.Sathish Kumar

... Petitioner

-Vs-

1. The Inspector General of Registration,
Office of the Inspector General of Registratin,
Santhome High Road, Mylapore,
Chennai – 600 004.

2. The District Registrar,
Office of the District Registrar,
Gobichettipalayam,
Erode – 638 452.

3. The Sub-Registrar,
Sub-Registrar Office,
Sathyamangalam,
Erode District.

4. Nagappa Gounder

5. Thangaraj

6. Marappan

... 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 in Na.Ka.No.516/A3/2022 dated 22.08.2022 on the file of the 2nd respondent and quash the same and direct the first and second



W.P.No.3902 of 2023

respondents to cancel the fraudulent partition document Doc.No.4511 of 2012 SRO Sathyamangalam dated 06.09.2012 within a stipulated time.

For Petitioner : Mr.J.Ranjith Kumar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader [R1 to R3]

ORDER

The prayer sought for herein is for a writ of Certiorarified mandamus to quash the impugned order of the second respondent in Na.Ka.No.516/A3/2022 dated 22.08.2022 and direct the first and second respondents to cancel the fraudulent partition document in Doc.No.4511 of 2012 at SRO Sathyamangalam dated 06.09.2012 within a stipulated time.

2. In respect of the document in Doc.No.4511 of 2012 registered at SRO Sathyamangalam i.e., third respondent, a complaint had been given by the petitioner against the fourth respondent to declare the said document as fraudulent and cancel the same as a consequential relief.



W.P.No.3902 of 2023

3. The said complaint given by the petitioner initially was considered under Section 68(2) of the Registration Act, 1908 [in short, 'the Act'], however the second respondent through a communication dated 22.08.2022 has stated that, in view of the circular issued in this regard by the Inspector General of Registration, the issue raised by the petitioner relates to the title of the property, which has to be referred only to Civil Court, therefore, it cannot be decided by the second respondent i.e., District Registrar within the meaning of Section 68(2) of the Act and hence that has been rejected by an order dated 22.08.2022, which is impugned herein.

4. Heard Mr.J.Ranjithkumar, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 3.

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



W.P.No.3902 of 2023

6. Learned Special Government Pleader would submit that the amendment in the Registration Act has come into effect from 16.08.2022, under which, provisions like 77-A has been inserted, therefore, since the impugned order has been passed on 22.08.2022, on that date Section 77-A was very much available to be pressed into service by the second respondent District Registrar, he could have very well conducted an enquiry on the complaint given by the petitioner against the private respondents as to the veracity of the document in question. However, based on the earlier circular issued in this regard by the Inspector General of Registration, since the order impugned has been passed, the same can be decided accordingly, he contended.

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

8. As has been rightly pointed out by the learned Special Government Pleader appearing for the official respondents that on 16.08.2022, the amended provisions viz., Section 77-A of the Act is very much available to be pressed into service by the second respondent.



W.P.No.3902 of 2023

9. When that being so, the second respondent ought not to have relied upon the earlier circular issued by the Inspector General of Registration and he could have very well entertained the complaint given by the petitioner and enquired the matter within the meaning of Section 77-A of the Act and therefore, the present reason cited in the impugned order cannot be sustained in view of the aforesaid legal position. Hence, this Court is inclined to dispose of this writ petition with the following order:

- ◆ That the impugned order is set aside and the matter is remitted back to the second respondent for reconsideration.
- ◆ While reconsidering the same, the second respondent shall take into account the complaint given by the petitioner within the meaning of Section 77-A of the Act and accordingly, after giving an opportunity of being heard to the petitioner as well as the private respondents or the persons against whom such complaint was given by the petitioner and decide the same on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.



WEB COPY



W.P.No.3902 of 2023

With this direction, this writ petition is disposed of. No costs.

10.02.2023

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

To

1. The Inspector General of Registration,
Office of the Inspector General of Registratin,
Santhome High Road, Mylapore,
Chennai – 600 004.
2. The District Registrar,
Office of the District Registrar,
Gobichettipalayam,
Erode – 638 452.
3. The Sub-Registrar,
Sub-Registrar Office,
Sathyamangalam,
Erode District.



WEB COPY



W.P.No.3902 of 2023

R. SURESH KUMAR, J.

mp

Writ Petition No.3902 of 2023

10.02.2023