



W.P.No.4276 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.4276 of 2023

R.Rajendiran

.... Petitioner

-Vs-

- 1.State represented by
The Secretary to Government
Registration Department
Fort St.George, Chennai 600 009.
- 2.The Inspector General of Registration
No.100, Santhome High Road, Mylapore
Chennai 600 004.
- 3.The Deputy Inspector General of Registration
Cuddalore Region, No.50, Sankara Naidu Street
Thiruppathiripuliyur, Cuddalore 607 002.
- 4.The District Registrar of Land Registration
Collector Office Campus, Villupuram-605 602.
- 5.The Sub-Registrar
No.1, Varachandai Complex
Manalurpettai, Thirukkoilur Taluk
Kallakurichi District.
- 6.The Joint Sub-Registrar-II
Thiruvannamalai, Thiruvannamalai District.
- 7.A.Thavamani

8.M.Vaikundarajan

.... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 4 to dispose the representation of the petitioner dated 04.01.2023.

For Petitioner : Ms.S.S.Jhothivani
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader – for RR 1 to 6
Notice dispensed with – for RR 7 and 8

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 to 4 to dispose the representation of the petitioner dated 04.01.2023.

2. The petitioner has given a complaint-cum-representation on 04.01.2023 to the 4th respondent ie., the District Registrar in respect of the property at Survey No.153/75, Kattanpoondi Village, Tiruvannamalai District to enquire the matter and declare the document in question pertaining to the property mentioned herein above as fraudulent or bogus document and consequently seeking for cancellation of the said document. In this context, it is the further case of the petitioner that already a civil suit has been filed in this regard. However, after the amendment has come into effect from 16.08.2022 in the Registration Act since quasi judicial power is vested with the District Registrar under Section 77-A of the Act, the said complaint dated 04.01.2023 has been



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given to the District Registrar and the same may be directed to be considered and decided by the 4th respondent District Registrar on merits and in accordance with law after giving an opportunity of being heard to both parties within a time frame that may be stipulated by this Court.

3. Heard Ms.S.S.Jhothivani learned counsel for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the official respondents. In view of the order that is going to be passed in this writ petition, notice to the private respondents is hereby dispensed with.

4. Learned Special Government Pleader would submit that, the said complaint-cum-representation given by the petitioner dated 04.01.2023 would be enquired into after giving an opportunity of being heard to the petitioner as well as the private respondents on merits and in accordance with law within a time frame.

5. Mere pendency of the civil suit would not preclude the District Registrar to exercise his power vested in him under Section 77-A of the Registration Act and this issue has been exhaustively dealt with by this Court in **W.P.No.3804 of 2023 dated 09.02.2023 (E.Harinath -Vs- Inspector General of Registration and Others)**, wherein the following has been held by this Court.



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18. Insofar as the parallel proceedings theory as projected by the learned counsel for the petitioner is concerned, suit could have been filed by the 3rd respondent prior to the amendment made on 16.08.2022 in the Registration Act, but prior to that, the legal position was that, even a genuine person whose property is meddled with by way of fraudulent / bogus documents, to redress such grievance, he/she had to approach the civil Court to seek remedy and this has been fortified by the Full Bench judgment of this Court reported in **2011 (2) CTC 1, (Latif Estate Line India Ltd -Vs- Hadeeja Ammal)** as well as the judgment of the Hon'ble Supreme Court in **Sathya Pal Anand Vs. State of Madhya Pradesh and others** reported in **(2016) 10 SCC 767**. However, that position is completely changed in view of the amendment having been made and Sections 22-A, 22-B, 77-A and 77-B have been inserted in the Statute Book and the same were given effect from 16.08.2022.

19. After 16.08.2022, it is for the aggrieved party to invoke Section 77-A of the Act to give a complaint unmindful of the civil suit which has already been filed and is pending between the parties before the concerned civil Court. The right of the aggrieved party to go before the District Registrar invoking Section 77-A of the Act cannot be taken away or denuded merely because a civil suit is pending. Hence, the first argument made on behalf of the petitioner is liable to be rejected and accordingly it is rejected.

20. Insofar as the second argument that the circular issued by the IGR in Letter No.33760/UI/2022 dated 27.09.2022 does not



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contemplate any such circumstance in respect of the documents which are in question to entertain such complaint and to enquire the matter is concerned, this Court has already held in number of cases that, the circular issued by the IGR shall only be supplementary to the provisions of the Act and shall not have the supplanting effect on the provisions of the Act. If the Act contemplates a particular procedure to be adopted by the authority who is vested with the power of quasi judicial nature, such power cannot be denuded by any executive authority much less the Inspector General of Registration (IGR). Therefore, the IGR's circular in Letter No.33760/U1/2022 dated 27.09.2022 cannot be termed as an exhaustive one and under which alone the District Registrar cannot be expected to act by exercising the power under Section 77-A of the Act. Therefore, that argument also made on behalf of the petitioner is to be rejected and accordingly it is rejected."

6. Following the said decision, this Court is inclined to dispose of this writ petition with the following order.

"That there shall be a direction to the 4th respondent District Registrar to consider the representation of the petitioner dated 04.01.2023, enquire the matter and decide the same on merits and in accordance with law, of course after giving an opportunity of hearing to both the petitioner as well the private respondents, within a period of eight weeks from the date of receipt of a copy of this order."



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

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Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

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R. SURESH KUMAR, J.

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