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W.P.No.4980 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.4980 of 2023

M/s.Thirunindra Narayanan
Finance and Investment Private Limited,
Represented by its Managing Director,
Mr.A.K.Alwar, No.38, IV Avenue,
Ashok Nagar, Chennai – 600 083.

... Petitioner

Vs

- 1.The Inspector General of Registration,
Santhome High Road, Pattinapakkam,
Foreshore Estate, Chennai – 600 028.
- 2.The District Registrar,
Central Chennai,
No.182, Bharati Salai (Pycrofts Road)
Royapettah, Chennai – 600 014.
- 3.The Sub Registrar,
Ashok Nagar,
Plot No.602-B-1, 1st Floor,
Alagirisamy Salai, Near PSBB School,
K.K. Nagar, Chennai – 600 078.
- 4.The Inspector of Police,
Kumaran Nagar Police Station,
26H8+7JV, 3rd Street, Ragavan Colony,
Mettupalayam, Ashok Nagar,
Chennai – 600 083.



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5.Veerapandian Abraham

6.V.Allen Abraham

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in his proceedings in Na.Ka.6157/A2/ 2022, dated 12.08.2022, quash the same and direct the second respondent to cancel the settlement deed registered by the third respondent in document No.1318 of 2022 dated 20.04.2022 executed by the 5th respondent in favour of the 6th respondent.

For Petitioner : Mr.M.L.Ramesh

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings in Na.Ka. 6157/A2/2022, dated 12.08.2022, quash the same and direct the 2nd respondent to cancel the settlement deed registered by the 3rd respondent in Document No.1318 of 2022 dated 20.04.2022 executed by the 5th respondent in favour of the 6th respondent.

2. In respect of Document No.1318 of 2022 on the file of the Sub Registrar, Ashok Nagar, the petitioner had given a complaint cum



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representation on 21.05.2022 to the 2nd respondent District Registrar to enquire the matter under Section 68(2) of the Registration Act.

3. The same having been enquired the 2nd respondent passed order on 12.08.2022 stating that the pendency of the civil suit where the person against whom complaint has been given failed to get an order to sell the property, despite that he encumbered the property which is the document in question were not known to the Sub Registrar concerned who registered the document in question, therefore there has been no ground to invoke Section 68(2) of the Registration Act to proceed against the alleged erring Sub Registrar concerned and therefore on that ground the 2nd respondent rejected the plea of the petitioner through the impugned order dated 12.08.2022.

4. Though the said order has been assailed in this writ petition, Mr.M.L.Ramesh, learned counsel appearing for the petitioner would submit that, the said complaint was given by the petitioner in May 2022 and the order impugned was passed on 12.08.2022 both were taken place prior to the State amendment taken place in the Registration Act, under which, from 16.08.2022 new provisions have been inserted like Section 77-A of the Act,



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based on which, the scope of the enquiry can be expanded by the District Registrar before whom any complaint is given by the aggrieved party against any document already been registered, the same can be enquired and to verify whether it is genuine or in genuine or fraudulent documents and if so the same can be declared so and consequential direction can be given to the registering authority to cancel the same. When that being the position, the learned counsel appearing for the petitioner seeks indulgence of this Court to remit the matter to the 2nd respondent for reconsideration within the meaning of Section 77-A of the Act.

5. On the other hand, Mr.Yogesh Kannadasan, learned Special Government Advocate appearing for the official respondents would submit that, since the complaint was given in May 2022 and order impugned was passed in August 2022 i.e. on 12.08.2022 just four days prior to the amendment has come into effect, the District Registrar cannot be blamed as to why he has not indicated Section 77-A of the Act, however if it is the definite case of the petitioner that, the document in question is a fraudulent document and after having failed in his attempt, the person against whom such complaint has been given by the petitioner from the Court of law to get



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an order to encumber the property in question seems to have been created the document in question and encumbered the property, certainly there shall be a *prima facie* case to that effect and therefore the complaint given by the petitioner dated 21.05.2022 can be treated as complaint within the meaning of Section 77-A of the Act and accordingly a revisit can very well be done by the 2nd respondent to hear the matter after giving an opportunity of hearing to both sides.

6. I have heard the said submissions made by learned counsel appearing for the parties and especially the stand taken by the learned Special Government Pleader for the official respondents. In view of the order going to be passed in this writ petition, notice to the private respondents is hereby dispensed with.

7. As has been rightly pointed out by the learned Special Government Pleader for the official respondents, a complaint given by the petitioner dated 12.05.2022 can very well be treated as complaint within the meaning of Section 77-A of the Registration Act and accordingly the order passed by the 2nd respondent, which is impugned herein, can be revisited and after



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conducting an enquiry by giving opportunity of being heard to both sides, a decision can be taken whether the document in question can be declared as genuine or in genuine or fraudulent documents and accordingly further consequential action also can be taken by the 2nd respondent.

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

That the impugned order is set aside and the matter is remitted back to the 2nd respondent for reconsideration. While reconsidering the same, the aforestated factual and legal aspect shall be borne in mind by the 2nd respondent and therefore the complaint given by the petitioner dated 21.05.2022 against the document in question shall be enquired into within the meaning of Section 77-A of the Registration Act by giving an opportunity of being heard to both petitioner as well as the private respondents and accordingly the same shall be decided on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



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9. With these directions, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

Sgl

To

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R.SURESH KUMAR, J.

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