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W.P.No.7244 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7244 of 2023

and

W.M.P.Nos.7295 & 7296 of 2023

1.S.Bhuvaneswari

2.K.Kalyani

3.R.Eswari

4.K.Lakshmi

... Petitioners

Vs.

1.The Inspector General of Registration of Chennai
Santhome High Road, Santhome
Chennai 600 004.

2.The Deputy Inspector General of Registration
Chennai Zone
Guindy, Chennai – 600 032.

3.The District Registrar
Central Chennai Registration Office
Royapettah, Chennai – 600 014.

4.Senthil Kumar

5.V.Damodharan



6.M.D.Radhakrishnan

7.M.D.Saraswathy

8.M.D.Usha

9.Vasantha

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the record of the impugned order No.1086/Aa1/2019 dated 10.10.2019 passed by the 2nd respondent herein and quash the same as null and void.

For Petitioner	: Mr.G.Thangavelu
For R1 to R3	: Mr.D.Ravichander Special Government Pleader
For R4	: Mrs.Kritika Kamal.P
For R5 & R6	: No Appearance
For R7 to R9	: Not Ready in Notice

ORDER

The petitioners claim that they are the absolute owners of the property of all the houses and grounds and premises bearing door old No.18-A, New No.102, New Avadi Road, Kilpauk, Chennai – 600 010, comprised in RS.No.77/27, Block No.6, Egmore Village.



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2. The petitioners state that they inherited the subject property from their father. The property is a an ancestral property allotted to the father of the petitioner vide partition deed of the year 1962.

3. The learned counsel for the petitioners made a submission that one Settlement Deed and Sale Deed of the year 1982 and 1984 respectively were executed by the family of the respondents 4 to 9. The said two documents namely Settlement Deed and Sale Deed are sought to be cancelled by the petitioners by filing a complaint under Section 82 and 83 of the Registration Act.

4. The learned counsel for the petitioners made a submission that the said document was found to be fraudulent by the Registering Authority and therefore, they have no option, but to cancel the documents. Though the District Registrar found that the two documents executed namely Settlement and Sale Deed were fraudulent, erroneously rejected the complaint filed by the petitioners. Thus, the petitioners preferred an appeal before the Deputy Inspector General of Registration, who in turn confirmed the order of



rejection passed by the District Registrar. Thus, the petitioners are constrained to move the present writ petition.

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5. The learned counsel appearing on behalf of the 4th respondent raised an objection by stating that the Settlement Deed and Sale Deed were executed in the year 1982 and 1984 respectively and the 4th respondent is in possession of the property from the year 2005 onwards. If at all the petitioner raises a doubt they have to approach the Competent Civil Court and therefore, the District Registrar and the Appellate Authority have rightly rejected the complaint submitted by the writ petitioners.

6. The learned counsel for the petitioners mainly contended that the document is a fraudulently registered one, which has been established and therefore, the documents ought not to have been cancelled by the District Registrar and the Appellate Authority also committed an error in confirming the order passed by the District Registrar.

7. The concept of fraud in the context of the Registration Act cannot be compared with reference to the meaning of the fraud in the common parlance.



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Fraud apparent on record alone can be interfered with by the District Registrar and the Appellate Authority and if there is a fraud which involves certain merits or facts then the parties are to be relegated to the Civil Court of law. Such an elaborate adjudication cannot be done by the Registrars. Registrars are not empowered to conduct trial natured enquiry akin to that of the civil courts. The power conferred under the Registration Act is to conduct a summary proceedings and not a trial natured proceedings and such adjudications are to be done only by the Competent Court of Law. Thus, every fraud in a document cannot be interfered with by the Registering Authority under the Registration Act. The fraud apparent on the phase of record alone can be cancelled and in respect of other factual disputes or merits it cannot be adjudicated by the District Registrar or the Appellate Authority under the provisions of the Registration Act.

8. The definition of fraud has been considered by this Court in the case of *N.Chinnasamy Vs. The District Registrar (Administration)* reported in *(2023) 2 MLJ 31* and the relevant paragraphs are extracted here under:

“16. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a



person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of "false documents", it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the



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owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.”

9. In view of the facts and circumstances, the petitioners have to approach the Competent Civil Court of Law, if at all they claim any right over the subject property. Neither the Registering Authority nor the High Court can adjudicate title or ownership in respect of the subject property. Thus, the petitioners have not established any acceptable ground for the purpose of interfering with the orders impugned passed by the competent authorities.

10. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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