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W.P.No.8411 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8411 of 2023

and

W.M.P.Nos.8601 and 8603 of 2023

Padmasri

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai – 4.

2.The District Registrar (Administration),
Office of the District Registrar,
Gopalapuram,
Coimbatore – 641 018.

3.The Sub-Registrar,
Office of the Sub-Registrar,
Sulur, Coimbatore.

4.P.Duraisamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the impugned Show Cause notice dated 23.01.2023 No. 14845/ E2/ 2023 on the file of the 2nd respondent and quash the same consequentially direct the 3rd respondent to await in final verdict to be



passed in Civil Suit in O.S. No. 436/ 2017 on the file of the District Munsif Court, Sulur, Coimbatore District.

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For Petitioner	: Mr.M.Selvam
For R1 to R3	: Mr.G.Krishna Raja, Additional Government Pleader
For R4	: Mr.Avinash Wadhwani

ORDER

The show-cause notice issued by the 2nd respondent on 23.01.2022 is sought to be quashed in the present writ petition.

2. The show-cause notice was issued pursuant to the complaint filed by the 4th respondent under Section 77-A of the Registration Act to cancel the Sale Deed executed by the petitioner in respect of the subject property.

3. The learned counsel for the petitioner mainly contended that a Civil Suit in O.S.No.436 of 2015 has been instituted in respect of the subject property and during the pendency of the Suit, the complaint filed by the 4th respondent is untenable. Further, the learned counsel for the petitioner made a submission that the District Registrar, Coimbatore earlier passed an order



on 31.07.2018 in respect of the same property and therefore, the present complaint filed by the 4th respondent is unsustainable.

4. The learned counsel for the 4th respondent raised an objection by stating that the present complaint was filed pursuant to the insertion of Section 77-A of the Registration Act and thus, the previous order cannot be construed as an *estoppel* for the purpose of preventing an aggrieved person to approach the Registrar under Section 77-A of the Act.

5. Fraud in a common parlance cannot be compared with the fraud and impersonation in the context of the Registration Act, more specifically under Section 22-B of the Act.

6. Mere pendency of a Civil Suit is not a bar for an aggrieved person to file a Civil Suit under Section 77-A of the Act to cancel the document registered on the ground of fraud or impersonation. However, fraud or impersonation is to be established in the context of Sections 32 to 35 of the Registration Act. It is not as if every allegation relating to fraud can be entertained by the District Registrar under Section 77-A of the Act. If the



allegations are falling beyond the scope of Section 77-A of the Registration Act, then the District Registrar is bound to relegate the parties to approach the civil court of law. Therefore, mere pendency of a Civil Suit is not a bar for invoking Section 77-A of the Act. It is for the parties to participate in the process of summary proceedings to be conducted by the District Registrar and establish their case in the manner contemplated under the Act.

7. Disputed facts are to be adjudicated before the competent authority. The writ petition has been filed challenging the show cause notice. No writ against a show cause notice is entertainable, unless such notice was issued by an incompetent authority having no jurisdiction or tainted with allegations of *malafides*. In all other circumstances, the parties who have received notice are expected to participate in the enquiry in order to defend their case. This being the principle, the petitioner is at liberty to participate in the process of enquiry and defend her case by availing the opportunities to be provided by the District Registrar.



8. With these observations, the writ petition stands disposed.

Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes

Speaking order

To

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S.M.SUBRAMANIAM, J.

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