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W.P.No.8180 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8180 of 2023

and

W.M.P.Nos.8406 & 8409 of 2023

1.R.Sulochana

2.P.Sampath Kumar

... Petitioners

Vs.

1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road, Chennai – 600 028.

2.The Deputy Inspector General (Registration)
Office of Commercial Taxes and Registration Department,
Ground Floor, Fernpet, Nandanam,
Chennai – 600 035.

3.The District Registrar (Administration) – Chennai South,
Department of Registration,
Office of Commercial Taxes and Registration Department,
Ground Floor, Fernpet, Nandanam,
Chennai – 600 035.

4.The Sub-Registrar,
Alandur Sub-Registrar Office,
No.15/7, Military Quarters,
Alandur, Chennai – 600 016.



5.S.Suresh Kumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the 1st respondent order date 12.01.2023 in proceedings No.36515/U1/2022 and quash the same in so far as it relates to confirmation of order of 3rd respondent.

For Petitioners : Mr.K.Sakthivel

For R1 to R4 : Mr.D.Ravichander
Special Government Pleader

For R5 : Mr.T.M.Pappiah

ORDER

The order dated 12.01.2023 passed by the 1st respondent is sought to be quashed in the present writ petition. More specifically, relating to the order passed by the District Registrar cancelling the settlement deed executed by the 1st petitioner.

2. The petitioners state that they are the owners of the subject property described in the present writ petition. The 5th respondent is also claiming right over the property. The 5th respondent registered a complaint to cancel the



settlement deed executed by the 1st petitioner and entertaining the complaint, the District Registrar passed an order cancelling the settlement deed.

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3. The petitioners preferred an appeal before the Deputy Inspector General of Registration, challenging the order passed by the District Registrar. During the pendency of the Appeal, the 5th respondent Mr.S.Suresh Kumar filed an Appeal before the Inspector General of Registration. Thereafter, he filed a writ petition in W.P.No.21880/2022 and this Court directed the Inspector General of Registration to consider and pass orders in the Appeal filed by the 5th respondent. Pursuant to the directions issued by this Court, the Inspector General of Registration passed the impugned order on 12.01.2023.

4. The learned counsel for the petitioners mainly contended that the Inspector General of Registration made an observation that the settlement deed, which was cancelled by the District Registrar is an invalid document and such an observation made would affect the Appeal filed by the writ petitioners before the Deputy Inspector General of Registration.

5. In this context, the order impugned reveals that the writ petitioners



had participated in the process of enquiry conducted by the Inspector General of Registration. Smt.R.Sulochana and Thiru.Sampath Kumar have given a statement before the Inspector General of Registration, wherein, they have pleaded that the said appeal is pending.

6. Administratively, the Inspector General of Registration is the head of the Department and the Deputy Inspector General is functioning under his Control. There was no objection on the part of the writ petitioners on dealing with the appeal filed by the 5th respondent before the Inspector General of Registration. When the Higher Authorities have taken the issues and decided on merits, it would become unnecessary for the appellate authority to decide those issues.

7. That apart, the issues regarding unregistered settlement deed, the Inspector General of Registration made an observation that the unregistered settlement deed is not a valid document, but refused to initiate criminal action under Sections 82 and 83 of the Registration Act. The declaration of document as null and void is to be made by the Competent Civil Court and the validity of the document under the provisions of the Registration Act alone has been clarified by the Inspector General of Registration.



8. That apart, the order passed by the District Registrar also has been confirmed. Therefore, for all purposes, the enquiry proceedings conducted before the Inspector General of Registration is to be construed as appeal proceedings and it became unnecessary for the Deputy Inspector General of Registration to proceed against the appeal filed by the writ petitioners and more so, the writ petitioners have participated in the enquiry proceedings before Inspector General of Registration.

9. Pertinently, the petitioners have already instituted a civil suit in O.S.No.211 of 2023 on file of the Principal District Court I at Chengalpet. Therefore, they have to establish their case through documents and evidence independently. The observations made by the Inspector General of Registration in the impugned order cannot be construed as conclusive proof under Section 35 of the Indian Evidence Act. Therefore, the parties have to establish their case independently through documents and evidences and this being the factum, the impugned order passed by the Inspector General of Registration deserves no further interference as it is an observation made about the unregistered title document with reference to the provisions of the



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Registration act and rules without causing infringement of the civil rights of the respective parties, which is to established before the Civil Court of Law and in the manner contemplated.

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

11.07.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order



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To

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S.M.SUBRAMANIAM, J.

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