



WEB COPY

W.P.No.11726 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11726 of 2023

and

W.M.P.Nos.11612 and 11613 of 2023

1.R.Ramakrishna

2.R.Balasekaran

3.S.Sreeram

... Petitioners

Vs.

1. Inspector General of Registration,
100, Santhome High Road,
Santhome,
Chennai – 600 008.

2. The District Registrar (Admin),
Office of the District Registrar – Chennai South,
Integrated Building for offices of the
Commercial Taxes and Registration,
Fanepet, Nandanam, Chennai – 600 035.

3. Office of the Sub-Registrar,
3rd Main Road, Ram Nagar,
Jagannatha Puram,
Velacherry, Chennai – 600 042.



4.S.Prabhu

5.K.Pasumpon

6.R.Murugesan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to impugned order bearing proceeding no.10123/E2/2022, dated 14.02.2023 on the file of the 2nd respondent herein and to quash the same.

For Petitioners	: Mr.Sunny.S For Mr.Sharath Chandran
For R1 to R3	: Mr.E.Sunda Ram, Government Advocate
For R4	: Mr.K.Balaji
For R5	: No appearance
For R6	: Mr.Praveenkumar

ORDER

The order dated 14.02.2023 passed by the District Registrar under Section 77-A of the Registration Act is under challenge in the present writ petition.



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2. The main grievance raised by the petitioner in this writ petition is that adequate opportunity was not provided to the petitioner to defend his case. The learned counsel for the petitioner states that even in the final notice, the hearing date has been wrongly stated the Lawyer, who represented the case of the petitioner was present on 15.12.2022.

3. The learned Government Advocate appearing on behalf of the respondents 1 to 3 produced the original final notice relating to the enquiry, which reveals that on receipt of complaint, notice was issued to the parties and the Advocate representing the case of the petitioner filed vakalat on 31.10.2022.

4. The learned counsel for the petitioner received documents along with the copy of the complaint on behalf of the respondents 3, 9, 11 and 13 in the complaint filed by the contesting respondents herein. Thereafter, the enquiry was conducted on 07.11.2022 and on 19.12.2022. Even in case opportunity had not been provided adequately to the petitioner, a statutory appeal has been contemplated under Section 77-B of the Registration Act.



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5. Exhausting appellate remedy is of paramount importance and the petitioner will be getting further opportunity to defend his case before the appellate authority on factual aspects. Contrarily, High Court cannot adjudicate the disputed facts with reference to the complaint regarding cancellation of a registered document. Thus, the writ petitioner need not be denied the benefit of appellate remedy, which is efficacious. If such disputed issues are decided in a writ petition, there is a possibility of prejudice in respect of the facts, which all are to be decided based on the original documents and evidences. The petitioner raised an allegation that proper opportunity has not been given. Thus, the petitioner has to exhaust the appellate remedy under Section 77-B of the Registration Act.

6. This being the factum, the petitioner is at liberty to approach the appellate authority for the purpose of redressal of his grievances. In the event of preferring such appeal, the appellate authority shall afford opportunity to the petitioner and all other parties and decide the issues on merits and in accordance with law as expeditiously as possible.



7. 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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