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W.P.No.12767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12767 of 2023
and
W.M.P.No.12564 of 2023

1.J.Meenakshi

2.R.Janarthanan

... Petitioners

Vs.

1.The District Registrar,
Registration Department,
Puducherry – 605 013.

2.Sub-Registrar,
Bahoor Sub Registrar Office,
Bahoor,
Pondicherry – 607 402.

3.K.Raghu @Mani

4.Mrs.Indira

5.S.Kuppu Reddiar

6.P.Dharmaraj

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the 1st and 2nd respondents to consider the 1st petitioner's representations dated 18.07.2022 and 20.02.2023 and cancel the sale deed Document No.17460/2021 registered dated 05.08.2021 and the same document No.17460/2021 which was refused to register earlier by the 2nd respondent dated 10.05.2019 on the file of the 2nd respondent on the grounds of fraud.

For Petitioner	: Mr.A.Selvaraj
For R1 & R2	: Mr.J.Kumaran, Additional Government Pleader (Puducherry)
For R3 & R4	: No appearance
For R6	: B.Bala Vijayan

ORDER

The writ petition has been filed for directing the 1st and 2nd respondents to consider the 1st petitioner's representations dated 18.07.2022 and 20.02.2023 and cancel the sale deed Document No.17460/2021 registered dated 05.08.2021 and the same document No.17460/2021, which was refused to register earlier by the 2nd respondent dated 10.05.2019 on the file of the 2nd respondent on the grounds of fraud.



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2. The learned Additional Government Pleader appearing for respondents 1 and 2 mainly contended that the District Registrar, Puducherry, has no jurisdiction to declare the registered document as fraudulent or cancel the document. The powers exercised by the District Registrar, Puducherry, is without jurisdiction and therefore, the writ petition is not entertainable.

3. Since the learned counsel for the petitioners state that he is mainly on the ground of jurisdiction, this Court is inclined to go into the grounds raised in this regard.

4. It is contended that the sale deed was registered vide Document No.17460 of 2021 dated 05.08.2021, Power of Attorney in Document No.2487 of 2015 dated 05.10.2021.

5. The learned counsel for the petitioner submitted representations dated 18.07.2022 and 20.02.2023 to the District Registrar to declare the



documents registered at the instance of the respondents as fraudulent.

However, there is no specific order cancelling the sale deeds registered by the respondents.

6. The powers of the Registering Authority under the provisions of the Registration Act, 1908, to cancel the registered documents are well enumerated by the three Judge Bench of the Hon'ble Supreme Court of India, in the case of **Satya Pal Anand vs. State of Madhya Pradesh and others**, reported in **(2016) 10 SCC 767**. The Relevant portion of said Judgment reads as under:-

“34. The role of the Sub-Registrar (Registration) stands discharged, once the documents is registered (see Raja Mohammad Amir Ahmad Khan) Section 17 of the 1908 Act deals with documents which require compulsory registration. Extinguishment deed is one such document referred to in Section 17 (1) (b). Section 18 of the same Act deals with documents, registration whereof is optional. Section 20 of the Act deals with documents containing interlineations, blanks, erasures or alterations. Section 21 provides for description of property and maps or plans and Section 22 deals with the description of houses and land by



reference to government maps and surveys. There is no express provision in the 1908 Act which empowers the Registrar to recall such registration. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. The power to cancel the registration is a substantive matter. In absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question. Similarly, the power of the Inspector General is limited to do superintendence of Registration Offices and make rules in that behalf. Even the Inspector General has no power to cancel the registration of any document which has already been registered.”

7. Admittedly, there is no power provided under the Registration Act, 1908, for the District Registrar to cancel the document unlike Tamil Nadu amendment.

8. Perusal of the findings made by the District Registrar would reveal that he had gone into the details of the documents presented between the parties and considered the rights of the parties to execute documents.



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9. The constitutional Courts have repeatedly held that the registering authority is not empowered to go into the civil rights of the parties. The competent Civil Court of law alone is empowered to declare the civil rights and the registering authority has no jurisdiction or authority to adjudicate the disputed facts regarding the civil rights of the parties in the present case.

10. Fraud or impersonation in the context of the Registration Act, 1908, is distinguishable. For fraud in the common parlance have wider connotation and meaning and the said general meaning of “fraud” cannot be adopted in respect of the documents registered under the Registration Act.

11. In the event of fraud being committed by any person, threefold actions are provided for an aggrieved person. Firstly, an aggrieved person may file a complaint to prosecute the persons under the Criminal Law. Secondly, such person is entitled to approach the Civil Court for establishing his civil rights.



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12. Thirdly, he can approach the competent authorities for cancelling the registered documents. As far as the administrative action under the provisions of the Registration Act is concerned, the definition of fraud cannot be expanded for the purpose of adjudication of civil disputes.

13. Only in the event of fraud apparent on record, the registering authority can interfere but not otherwise. Therefore, the registering authority is not empowered to usurp the power of the Civil Court. Such exercise of powers act akin to the powers of the Civil Court. Even if there is any iota of doubt regarding civil rights, the parties are to be relegated to the Civil Court of Law for the purpose of establishing their rights.

14. In the present case, the question arises by declaring a registered document as fraudulently registered deeds, what would be the consequence.

15. When the District Registrar has no power to adjudicate, the civil rights of the parties, he ought not issue any such declaration declaring the



registered document as fraudulently registered deeds. Such a power has been conferred only on the Civil Court and such declarations cannot be given based on summary proceedings.

16. In the event of declaring the document as fraudulent by the District Registrar, merely by conducting summary proceedings, it would infringe the civil rights of the parties regarding the properties and more so right to property is of constitutional right and Article 300 A of the Constitution of India gets violated, since such right can be taken away only by the authority of law.

17. With regard to establishing their rights, either of the parties is at liberty to approach the competent Civil Court of law for the purpose of getting such declaration as to whether the document is fraudulently registered or not. Thus, the remedy lies before the Civil Court of Law and quashing of the orders would not require the parties from establishing their rights before the Civil Court of Law.



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18. With these observations, the writ petition stands allowed.

Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The District Registrar,
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2.Sub-Registrar,
Bahoor Sub Registrar Office,
Bahoor,
Pondicherry – 607 402.



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S.M.SUBRAMANIAM, J.

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