



WEB COPY



Writ Petition No.16430 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.16430 of 2023

Mrs.T.Johnsy Bai (Senior Citizen)

... Petitioner

-Vs-

1. The Principal Secretary to the Government,
Revenue and Disaster Management (ULT -I(2)] Department,
Secretariat, Chennai – 600 009.

2. Mr.P.K.Doss

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, direct the 1st respondent to dispose of the representation dated 15.04.2021 given by the petitioner within the time frame issued by this Court.

For Petitioner : Mr.J.Chelladurai Caldwell

For Respondent : Mr.D.Ravichander
Special Govt. Pleader [R1]

ORDER

The writ on hand has been instituted to direct the first respondent to dispose of the representation dated 15.04.2021 given by the petitioner.



2. The powers of the Civil Court for adjudication of civil disputes under the Code of Civil Procedure, 1908 cannot be conferred on the District Registrar under the provisions of the Registration Act, 1908.

3. A distinction is to be drawn with reference to the powers conferred under the Registration Act to the competent authority and the powers of the Civil Court for adjudication of issues by conducting an elaborate trial.

4. There are writ petitions filed seeking for cancellation of certain documents registered under the Registration Act, 1908 by approaching the District Registrars. Issuing a direction to consider the complaint of such nature or issuing a direction to adjudicate the issues of such complex nature before the District Registrar would cause prejudice to either of the parties to establish their case before the competent Civil Court of law under the Code of Civil Procedure, 1908. Therefore, the scope of powers of the District Registrar under the Registration Act cannot be expanded for the purpose of adjudication of issues of civil nature. Only in certain cases, where there is a *prima facie* illegality, fraud or otherwise and such fraud or illegality has been committed recently,



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then alone the District Registrars are empowered to conduct an enquiry and take a decision. Even during the process of enquiry, if the District Registrar finds that the issues are complex in nature, then they have to relegate the parties to approach the competent Civil Court of law for resolving the issues. Contrarily, the District Registrar is not empowered to decide the title or the issues involved in respect of the facts stated in the documents presented by the respective parties. The District Registrar can conduct a summary proceedings under the Registration Act, which cannot substitute trial nature proceeding, which is to be conducted before the competent Civil Court of law under the Code of Civil Procedure.

5. Pertinently, in the present case the parties had already instituted a civil suit in O.S.No.153 2020 on the file of the III Additional District Judge, Poonamallee, which is sub-judice before the Court concerned. That being the case, the District Registrar cannot conduct a parallel enquiry under the provisions of the Registration Act. Thus, it is made clear that in the event of pendency of a civil suit before the Civil Court, the District Registrar shall restrain in entertaining such complaint for adjudication to cancel the documents already registered. Parallel



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proceedings would cause prejudice to either of the parties. Therefore, the District Registrar is bound to wait till the civil proceedings reach its finality.

6. The powers of the District Registrar to conduct summary proceedings under the Registration Act cannot be expanded for the purpose of adjudication of issues between the parties on merits. Therefore, if *prima facie* the document has been found to be registered fraudulently without any ambiguity, then alone the District Registrar can exercise and pass appropriate orders and in all other cases they are bound to relegate the parties to approach the Civil Court of law. The distinction must be drawn by the competent authority and in this regard, the Inspector General of Registration shall issue an appropriate circular demarcating the powers to be exercised by the District Registrar for entertaining the complaint to cancel the registered documents. Excess exercise in this regard would cause infringement of property right to either of the parties. The District Registrars are not empowered to decide the civil disputes. Therefore, this Court is of the considered opinion that the petitioner has to adjudicate all the issues before the Civil Court in a pending suit or through proper proceedings.



7. The learned counsel for the petitioner contended that based on the fraudulent documents registered under the Registration Act, 1908, the opposite parties are posing themselves as the absolute owners. Since the civil suit is pending before the competent court of law, the authority may not be in a position to conduct an effective adjudication.

8. In view of the complex nature of the facts and circumstances and considering the fact that the parties have already instituted a civil suit before the competent Court, they are bound to resolve the issues through the Civil Court of law. The authorities till such time may not be in a position to consider the representation, complaint or otherwise. Merely issuing a direction to consider the representation by the authorities would do no service to the cause of justice. Contrarily, it will create further complexity and the parties will be repeatedly approaching the Writ Court in one way or other. Thus, the issues are to be resolved through proper channel and by approaching the competent forum. In view of the facts and circumstances, this Court is not inclined to grant the relief as such sought for in the present writ petition.



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S.M.SUBRAMANIAM, J.

mp

Accordingly, this writ petition stands dismissed. No costs.

05.06.2023

Index : Yes

Speaking order: Yes

Neutral Citation: Yes

mp

To

The Principal Secretary to the Government,
Revenue and Disaster Management (ULT -I(2)] Department,
Secretariat, Chennai – 600 009.

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