



W.P.No.12389 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12389 of 2023
and
W.M.P.No.12223 of 2023

A.Shankar Raman

...Petitioner

Vs.

1.The District Registrar (Administration)
(in the rank of Deputy Inspector General
of Registration)
Central Chennai,
Chennai – 600 014.

2.Mr.L.Narayanan

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in the order bearing No.Na.Ka.1254/Aa2/2022 dated 30.11.2022 passed by respondent no.1 and quashing the same.

For Petitioner : Mr.M.Radhakrishnan

For R1 : Mr.S.Ravichandran
Additional Government Pleader



W.P.No.12389 of 2023

ORDER

WEB COPY

The order passed by the 1st respondent / District Registrar, cancelling the registered document of sale is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the petitioner mainly contended that the cancellation made by the 1st respondent is *ab initio* void and therefore, the order is to be set aside. Since the cancellation is not in consonance with the Registration Act, the petitioner has chosen to file the present writ petition.

3. The order impugned reveals that a liberty has been granted to the petitioner to prefer an appeal within a period of 60 days to the Deputy Inspector General of Registration, Chennai Region. Even the address of the Appellate Authority has been given. When the appeal is contemplated under the provisions of the Act, the same is to be exhausted before approaching the High Court under Article 226 of the Constitution of India.



W.P.No.12389 of 2023

4. Power of judicial review under Article 226 of the Constitution of

India is to ensure, whether the processes through which a decision is taken by the competent authorities is in consonance with the Statutes and Rules in force, but not the decision itself. That being the scope of power of judicial review under Article 226 of the Constitution of India, exhausting the Appellate Remedy is of paramount importance, since the factual findings of the original authority and the Appellate authority would be of greater assistance to the High Court for the purpose of effective exercise of the power of judicial review under Article 226 of the Constitution of India.

5. Rule is to exhaust the Appellate Remedy and thereafter approach the Court. Only on exceptional circumstances, in order to mitigate the injustice or the delay and if it would defeat justice, then alone, the Court would be in a position to dispense with the Appellate Remedy.

6. The learned counsel for the petitioner drew the attention of this Court that the order impugned is nullity and therefore, the writ is to be entertained.



W.P.No.12389 of 2023

7. It is needless to state that the Appellate Authority, while exercising the quasi-judicial powers under the Statute is empowered to decide the jurisdiction, maintainability and all other legal points raised between the parties.

8. That being the power conferred on the Appellate Authorities, High Court need not burden itself by entertaining such writ petitions, instead of relegating the parties to exhaust the Appellate Remedy, which would be more beneficial to the aggrieved persons. More so, an aggrieved person need not be unnecessarily deprived of his right of appeal and in the event of entertaining a writ petition and keeping it pending for long time, the same would cause prejudice to the litigants also. Contrarily, they may effectively present their case before the Appellate Authority for securing relief in an appropriate manner.

9. This being the principles to be followed, while entertaining such writ petitions filed without exhausting the appeal remedy, the petitioner is at liberty to file an appeal before the Deputy Inspector General of Registration, Chennai Region and in the event of filing any such appeal, the Appellate



W.P.No.12389 of 2023

Authority shall consider the same by affording opportunity to all the parties and dispose of the same as expeditiously as possible.

10. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2023

Index : Yes
Speaking order
Neutral Citation: Yes
kak

To

1. The District Registrar (Administration)
(in the rank of Deputy Inspector General
of Registration)
Central Chennai,
Chennai – 600 014.



WEB COPY



W.P.No.12389 of 2023

S.M.SUBRAMANIAM, J.

kak

W.P.No.12389 of 2023

24.04.2023