



WEB COPY

WP No.18182 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.18182 of 2023

And

WMP No.17383 of 2023

1.K.Duraisamy

2.R.Manickam

3.K.Sundaram

4.Nallasivam

... Petitioners

Vs.

1.The District Registrar (Administration),
District Registrar Office,
Erode-638 009.

2.P.Bhuvaneswari

3.P.Rajasekaran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the first respondent's proceedings in Na.Ka.No.4801/A2/2022, dated 10.10.2022 and



quash the same.

For Petitioners	: Mr.N.Palani Kumar
For Respondent-1	: Mr.D.Ravichander, Special Government Pleader.
For Respondent-2	: Mr.G.Thiyagarajan
For Respondent-3	: Not Ready in Notice

ORDER

The notice dated 10.10.2022 issued by the first respondent under Section 77-A of the Registration Act, 1908, is under challenge in the present writ petition.

2. The petitioners state that the subject property was purchased by them and they are in possession and enjoyment of the same. They purchased the subject property vide Sale Deed dated 30.04.1990 in Document No.1536 of 1990. The petitioners purchased the property from one Mr.P.Rajasekaran, who is a co-sharer in a joint family property.



3. The second respondent-Tmt.P.Buvaneswari is the sister of the third respondent and the other family members are not impleaded as parties in the present writ petition. The other co-sharers of the joint family property are also not added as parties in the present writ petition.

4. The second respondent submitted a complaint before the first respondent to cancel the Sale Deed executed in favour of the petitioners. On receipt of the complaint, the District Registrar issued impugned notice to the petitioners asking them to submit their documents along with explanations/defence statements, if any for the purpose of conducting an enquiry under Section 77-A of the Registration Act, 1908.

5. The petitioners, instead of participating in the process of enquiry, have chosen to file the present writ petition mainly on the ground that the vendors to the petitioners are armed with Civil Court decrees, which were confirmed by the First Appellate Court and in the Second Appeal. Therefore, the very initiation of enquiry proceedings by the District Registrar is untenable.



6. Per contra, the learned counsel for the second respondent disputed the said facts by stating that the other family members are also co-sharers and their rights are deprived. Without impleading those co-sharers, the writ petitioners are not entertainable. More-so, the District Registrar has issued only notice to the parties for the purpose of affording an opportunity and therefore, the contentions raised in the present writ petition are merely based on the apprehensions.

7. No writ against an enquiry notice is entertainable unless such notice has been issued by an Incompetent Authority having no jurisdiction and tainted with an allegation of mala fides. The statutory powers exercised by the Authorities must be allowed to be exercised in all circumstances except where the Authority initiated proceedings has no jurisdiction.

8. In the present case, admittedly the second respondent has given a complaint. In order to conduct an enquiry, the first respondent issued notice and all facts and documents may be placed before the first respondent for the purpose of conducting an enquiry and to decide the complaint.



9. Mere issuance of notice would provide no cause to the writ petitioners for filing the present writ petition. Even in case, the petitioners' case is supported by the decrees of the Civil Court, that is to be placed before the Authority for the purpose of consideration.

10. Contrarily, in the event of entertaining the present writ petition or consider the issues by the High Court, there is a likelihood of causing prejudice in respect of other co-sharers, who all are the family members and their rights are also involved.

11. This being the factum, the petitioners are at liberty to submit their explanations along with the documents, if any to the first respondent, who in turn shall conduct an enquiry by affording an opportunity to all the parties concerned and pass an order on merits and in accordance with law.



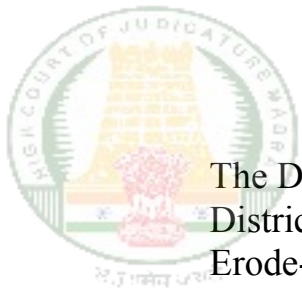
12. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs.

Consequently, the connected miscellaneous petition is also dismissed.

04-08-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To



The District Registrar (Administration),
District Registrar Office,
Erode-638 009.

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S.M.SUBRAMANIAM, J.

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