



WEB COPY



W.P.No.16993 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16993 of 2023

G.S.Kandasamy

... Petitioner

Vs

1.The District Registrar,
Registration Department,
Erode – 9.

2.S.Nallasivam

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.3053/A-2/2020, dated 07.01.2021 and quash the same and consequently directing the 1st respondent to conduct fresh enquiry and pass a detail order by invoking under Section 77-A of the Registration Act.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.D.Ravichander
Special Government Pleader for R1



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ORDER

The order impugned dated 07.01.2021 passed by the District Registrar is sought to be quashed in the present writ petition after a lapse of 2 ½ years.

2. The order impugned reveals that the District Registrar is unable to form an opinion that whether the registered document is fraudulent or impersonated and accordingly relegated the petitioner to approach the competent Court of law. Therefore, the District Registrar has considered the issues on merits and formed an opinion that the case of the petitioner is not falling under the scope of the provisions of the Registration Act, since the petitioner has not established any fraud or impersonation which all are the restricted grounds on which the District Registrar can cancel the documents.

3. The District Registrar under the provisions of the Registration Act is not empowered to function akin to Civil Court. Issues are to be decided through summary proceedings and therefore the District Registrar cannot adjudicate the issues which all are to be decided in a trial natured proceedings. Scope of the powers conferred under the Registration Act to the



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District Registrar cannot be expanded for the purpose of adjudication of title, ownership, validity or otherwise. If at all any document has been registered fraudulently or through impersonation, then alone the District Registrar is empowered to cancel the same but not otherwise.

4. In the present case, the District Registrar in the impugned order has stated that the petitioner is at liberty to prefer an appeal within a period of 60 days if he is aggrieved from and out of his order. Instead of preferring an appeal, the petitioner waited for about 2 ½ years and filed the present writ petition thereby circumventing the period of limitation. Such lethargic approach of the litigants at no circumstances be appreciated by the High Court nor the petitioner cannot condone the long delay in preferring the appeal by filing the writ petition.

5. The learned counsel for the petitioner states that the application submitted by the petitioner was rejected on the ground that the District Registrar has no authority. Both the original authority and the appellate authority are exercising quasi judicial powers under the Act and therefore,



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they are empowered to adjudicate factual disputes as well as the legal grounds raised between the parties. While so, the said ground is untenable as the Deputy Inspector General of Registration is empowered to consider the legal grounds including the period of limitation or otherwise.

6. In view of the facts and circumstances, the writ is not entertainable since the impugned order was passed before 2 ½ years and more so it provides an appellate remedy to the petitioner which is to be exhausted. Thus, the petitioner is at liberty to workout his remedy before the appellate authority in the manner known to law. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs.

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Index : Yes / No

Speaking Order : Yes / No

Sgl



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To

The District Registrar,
Registration Department,
Erode – 9.



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S.M.SUBRAMANIAM, J.

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