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W.P.No.16455 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16455 of 2018
and WMP.Nos.19664 of 2018 & 5388 of 2019

Aravamudhu

... Petitioner

Vs.

1. The District Registrar,
Registration Department, Puducherry.

2. V.C.Gopinath

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in proceeding No.1785/RD/SR-Admin/DRP/2018/646 dated 25.05.2018 issued by the 1st respondent and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.R.Singaravelan
Senior Counsel
for Mr.K.Sasindran

For Respondent : Mr.P.S.Kothandaraman
Government Advocate [Puducherry] [R1]

Mr.C.A.Diwakar [R2]



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ORDER

The lis on hand has been instituted questioning the validity of the enquiry notice issued by the first respondent District Registrar vide proceedings dated 25.05.2018.

2. The petitioner states that he is the absolute owner of the property more fully described in the present writ petition. However, the dispute exist between the petitioner and the second respondent regarding the subject property and the contention of the second respondent is that the petitioner is going on executing the documents in a fraudulent manner depriving the right of the second respondent.

3. The learned Senior counsel appearing for the petitioner mainly contended that the petitioner is in possession of title documents and a civil suit has already been instituted in O.S.No.1649 of 2018, which is pending before the Principal District Munsif Court, Puducherry.

4. The learned counsel appearing for the second respondent objected the said contention by stating that the second respondent is the owner of the



property and he has already produced the documents before the District Registrar, who in turn is also in the process of scrutinizing the same for the purpose of deciding the issues raised between the parties.

5. Question arises whether the District Registrar, Puducherry is competent to determine the disputes of civil nature existing between the parties. Unlike the Tamil Nadu amendment made under Section 77-A and 77-B, no such provisions are available for the Territory of Puducherry.

6. However, the learned counsel for the second respondent made a submission that under Section 68 of the Registration Act, 1908, the Registrar holds superintendence and control powers of the Sub Registrars and therefore, the Registrar is empower to conduct an enquiry with reference to the registration of fraudulent documents if any made.

7. Section 68(1) enumerates that “every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.”



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8. Sub-Section (2) of Section 68 stipulates that “every Registrar shall have authority to issue (whether on complaint or \ otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book of the office in which any document has been registered.”

9. Therefore, the Registrar has got a limited power to superintend the Sub-Registrars, who is the Registering Authority. If at all any procedural violations or irregularities in the matter of registration is identified, then alone the registrar is empowered to institute proceedings for the purpose of correcting or rectifying the same.

10. Contrarily, the District Registrar cannot entertain a complaint for the purpose of adjudication of civil rights or title disputes. If at all there is any such issues raised between the parties then the District Registrar is bound to relegate the parties to approach the Civil Court of law for the purpose of establishing their title, ownership based on the documents and evidence available on records.



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11. A line is to be drawn in this regard by the competent authorities under the provisions of the Registration Act, 1908. While entertaining a complaint, the Registrar has to decide whether the issues raised between the parties are entertainable and can be adjudicated under the provisions of the Registration Act. If allegations fall within the scope of Section 68 of the Registration Act then such complaints can be entertained and an enquiry is to be conducted to find out whether the Sub Registrar has committed any irregularity, illegality or violation of any of the provisions under the Registration Act. If the parties are admitted to crystallize their civil rights or the title disputes then they are to be relegated to the Civil Court of law.

12. In the present case, allegations and counter allegations are raised, which all are question of law and fact, therefore the District Registrar has to segregate and identify the issues, which all fall under the Section 68 of the Registration Act and those issues alone are to be tried by conducting an enquiry by affording an opportunity to all the parties, based on the documents presented. In respect of the other issues relating to civil right of the parties or title rights, they can be relegated to approach the Civil Court of law for the purpose of adjudication.



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13. No writ against a show cause notice/enquiry notice is entertainable under Article 226 of the Constitution of India. A writ against an enquiry notice may be entertained if such notice has been issued by an incompetent authority having no jurisdiction or guiding with allegations of malafides, in any other circumstances, a person receiving notice is expected to defend their cases by participating and by producing documents before the competent authorities.

14. In the present case, the petitioner states that the second respondent is claiming title over the property. The second respondent states that the Sub-Registrar has committed illegalities and irregularities by registering several documents in favour of the writ petitioner. This being the allegations and counter allegations raised between the parties, the first respondent is directed to segregate the issues and frame appropriate issues falling under the scope of Section 68 of the Registration Act and thereafter, conduct an enquiry by affording an opportunity to all the parties and pass appropriate orders on merits and in accordance with law.



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15. The parties are at liberty to submit their respective additional defend statement or documents if any within a period of two (2) weeks from the date of receipt of a copy of this order.

16. On completion of pleadings within a period of two weeks, the first respondent is directed to conduct enquiry and pass appropriate final orders on merits and in accordance with law within a period of twelve(12) weeks thereafter.

With these observations, this writ petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

01.09.2023

Index : Yes

Speaking order

Neutral Citation : Yes/No

mp

To

The District Registrar,
Registration Department, Puducherry.



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S.M.SUBRAMANIAM, J.

mp

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