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W.P.No.17527 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17527 of 2023

M.Ramesh Kumar

... Petitioner

Vs.

1.The Inspector General of Registration,
Chepauk, Chennai – 600 005.

2.The District Registrar,
Namakkal District,
Namakkal.

3.Dhanabaggiam

4.Suresh Kumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to conduct enquiry in respect of sale deeds i.e (1)comprising S.No.275/2, Patta No.1301, Thummankurichi village, Namakkal District by way of registered sale deed No.1671/2008, (2) comprising S.No.275/2, Patta No.1301, Thummankurichi Village, Namakkal District by way of registered sale deed No.2362/2014, (3) comprising S.No.137/1, New Town S.No.7/1A1A, Patta No.5475, Salem Road Namakkal District by way of registered sale deed



No.2893/2014, and (4) comprising S.No.275/2, Patta No.301, Thummankurichi Village, Namakkal District by way of registered sale deed No.1755/2011 and cancel the documents which was registered by the 3rd and 4th respondent by fraudulently by considering the petitioner representation dated 31.10.2022.

For Petitioner : Mr.P.Murali

For R1 & R2 : Mr.G.Krishna Raja,
Additional Government Pleader

ORDER

The practice of attempting to settle the civil disputes through writ proceedings at no circumstances be encouraged by the High Court, while exercising the power of judicial review under Article 226 of the Constitution of India.

2. The 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 authority is in consonance with the Statutes and Rules in force, but not the decision itself. Several writ petitions are filed in order to secure declaratory relief of title or ownership in respect of immovable properties. Such practises cannot be encouraged by the High



Court, if it is encouraged, an anomalous situation would arise in respect of the civil rights of the parties.

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3. Civil Rights of the parties are to be established through the Competent Civil Court of Law by way of an adjudication. Such an adjudication in a trial natured manner cannot be undertaken by the High Court in a writ proceeding. In other words, High Court cannot conduct a roving enquiry in respect of title disputes or other civil disputes between the parties. Any observation in this regard, if made by the High Court in writ proceedings would undoubtedly cause prejudice to any of the parties in the matter of establishing their civil rights through documents and evidences on record. Therefore, it is always not desirable to venture into an adjudication of civil disputes in writ proceedings and the parties are to be relegated to the Civil Court for such adjudication.

4. In the present case, the petitioner states that the 3rd and 4th respondent have submitted a forged death certificate and legal heir certificate. The said certificates were cancelled by the High Court in a writ proceeding. Based on the order passed in the writ proceeding, the petitioner



seeks cancellation of registered Sale Deed under the Registration Act. The powers conferred on the District Registrar to cancel the registered document is limited to an extent of entertaining an application only on the ground of fraud and impersonation.

5. Fraud cannot be understood in a general terms. Fraud has got a wider meaning and in the context of Registration Act, fraud has to be interpreted to a limited extent that if there is fraud apparent on record. Therefore, if any fraud is found apparent on record while registering a document, then alone the District Registrar is empowered to cancel the document by conducting summary enquiry. While conducting summary proceedings, the District Registrars are expected to exercise restraint in adjudicating the issues on merits. At no circumstances, there must be an adjudication on merits in respect of title and various other documents, if at all produced by the parties to the enquiry. Only if the registration is found to be fraudulent apparently, then alone the District Registrar has to cancel the document by conducting summary proceedings and by affording an opportunity to all the parties. If there is any iota of doubt regarding the title or disputed facts, then the parties are to be regulated to the Civil Court for



complete adjudication. At no circumstances, either of the parties to the complaint should be given a chance to take undue advantage of the registration made or cancellation of document. A balanced approach is to be adopted in this regard by the District Registrars and a distinction is to be drawn in a clear manner, so as to entertain complaint where fraud or impersonation is apparent on the record.

6. In the present case, the legal heir certificate and death certificate were submitted based on which registrations were made. Subsequently, it was cancelled in a writ proceeding. There is a dispute existing between the petitioner and the respondents 1 to 4. Thus, the petitioner has to approach the Competent Civil Court of Law for a comprehensive relief to settle the issues including the title or other documents or otherwise.

7. It is brought to the notice of this Court that the parties have already instituted a Civil Suit in O.S.No.455 of 2022. When the Civil Suit is pending between the parties, High Court cannot entertain a writ petition in respect of the relief as such sought for in the present writ petition.



8. Accordingly, this Writ Petition stands disposed of. No costs.

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Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Inspector General of Registration,
Chepauk, Chennai – 600 005.

2.The District Registrar,
Namakkal District,
Namakkal.



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S.M.SUBRAMANIAM, J.

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