



W.P.No.17956 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.17956 of 2023

and

W.M.P.Nos.17103 & 17104 of 2023

Vijayakumar

... Petitioner

Vs

1.The District Registrar (Administration),
District Registrar Office,
Namakkal.

2.Devaraj

3.Poongodi

4.Minor Lakshana

5.Minor Indires

(Minor respondents 4 and 5 through
their mother and next friend the
3rd respondent herein)

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the notice dated 30.11.2022 in Na.Ka.No.7735/B7/2022 issued by the 1st respondent and quash the same and consequentially directing the 1st respondent to relegate the parties to civil court.



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For Petitioner : Mr.M.Muthappan
for Mr.J.Titus Enock

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

ORDER

The show cause notice issued by the District Registrar on 30.11.2022 asking the petitioner to submit his explanation within 15 days with reference to the complaint filed by the respondents 2 to 5 is under challenge in the present writ petition.

2. The learned counsel for the petitioner states that the complaint filed by the contesting respondents are untenable since the District Registrar has no power to entertain complaint under Section 77-A of the Registration Act. The case of the petitioner does not fall under Section 22-A and 22-B of the Registration Act and therefore, the exercise of power by the District Registrar is in violation of Section 77-A of the Act.

3. It is not in dispute that the petitioner has already instituted a civil suit in O.S.No.110 of 2022 which is pending as of now. As far as the complaint under the Registration Act is concerned, the District Registrars



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are empowered to conduct summary proceedings and ascertain whether the circumstances narrated either under Section 22-A or under Section 22-B are read with. In such circumstances, the District Registrar is empowered to cancel the document. At the outset, if 'fraud' or 'impersonation' is apparent on the face of record falling within the ambit of Sections 32 to 35 of the Act, then the District Registrar is empowered to cancel the documents invoking Section 77-A of the Act.

4. The learned Special Government Pleader for the 1st respondent brought to the notice of this Court that the power of attorney document was relied on for the purpose of execution of sale deed. As on the date of the execution of sale deed, one of the Principal died and therefore, the power of attorney has fraudulently executed the sale deed after the death of the Principal. It is apparently a fraud falling within the ambit of Section 22-B of the Act. However, this Court has not expressed any opinion regarding the merits of the case and all these facts are to be adjudicated by way of summary proceedings and by verifying the documents by the District Registrar. It is for the complainant to establish his case independently through documents, so also the petitioner is entitled to defend his case by



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producing the documents and evidences. This being the Scheme of the Act, the writ petition challenging the show cause notice need not be entertained.

5. No writ against a show cause notice is entertainable in a routine manner. A writ against a show cause notice may be entertained only if there is an allegation of *malafides* or the authority issued a show cause notice without any jurisdiction. In all other circumstances, the parties are bound to defend their case in the manner known to law and by availing the opportunities to be provided by the authorities under the provisions of the Act.

6. In the present case, there are certain circumstances which all are to be adjudicated and by providing opportunity to all the parties. This being the factum, the petitioner is at liberty to submit his explanation/objection along with all the documents to the District Registrar who in turn shall conduct the enquiry by following the procedures and by affording an opportunity to the parties and dispose of the same on merits and in accordance with law.



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7. With this liberty, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/ No

Speaking order : Yes /No

Sgl

To

The District Registrar (Administration),
District Registrar Office,
Namakkal.



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S.M.SUBRAMANIAM, J.

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