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W.P.No.17506 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.17506 of 2023

Mr.G.Anthoney Mothi Robert

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai – 600 028.

2.The District Registrar,
North Chennai Registration District,
Kuralagam, Chennai – 600 053.

3.The District Registrar,
Thiruvallur Registration District,
Thiruvallur – 602 001.

4.The Sub-Registrar,
Arani Sub Registrar Office,
Arani – 601 101.

5.Mr.P.Thangaraj

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing to the 1st to 4th respondent to cancel the Sale Deed registered as document No.2687 of 2021, dated 07.07.2021, on the file of the 4th respondent, by considering the petitioner representation dated 13.12.2022.

For Petitioner : Mr.R.Chakkaravarthy

For R1 to R4 : Mr.G.Krishna Raja,
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 4 to cancel the Sale Deed register as Document No.2687 of 2021 dated 07.07.2021 on the file of the 4th respondent by considering the representation submitted by the petitioner on 13.12.2022.

2. The petitioner states that he purchased a property to an extent of 2400 Sq.ft land and 790 Sq.ft building in plot No.171, at Shri Kanchi Kamakodi Nagar, Koduvalli Village, Thiruvallur Taluk from one Smt.R.Usha, wife of Sridhar for valid consideration. The 5th respondent approached the writ petitioner to purchase the said property for a sale



consideration of Rs.17,54,000/-. The petitioner agreed to sell his property and accordingly executed a Sale Deed in favour of the 5th respondent by way of a registered Sale Deed in Document No.2687 of 2020 on the file of the 4th respondent.

3. The grievance of the writ petitioner is that the check issued by the 5th respondent was dishonoured and the sale consideration was not paid to the petitioner. Since the check issued by the 5th respondent was dishonoured after execution of Sale Deed, he has submitted a representation to the respondents 1 to 4 to cancel the sale deed. Since no action has been taken, the petitioner is constrained to move the present writ petition.

4. Section 54 of the Transfer of Property Act, 1882 defines “Sale”-
“Sale is a transfer of ownership in exchange for a price paid or part paid or promised or part-paid and part-promised”. Therefore, it is not necessary that the entire sale consideration is to be settled at the time of registration of the document. It is a private transaction between the buyer and seller and if at all any violation is committed by any one of the parties, they have to approach the Competent Forum for the purpose of redressal of their



grievances. Contrarily, the Registering authority cannot cancel document, which is otherwise in accordance with the provisions of the Registration Act.

5. Cancelling a registered document by the Registrar under the Registration Act cannot be expanded for the purpose of declaring the Sale Deed as null and void based on the transactions between the parties. The merits regarding facts are to be adjudicated between the parties before the Competent Civil Court of Law and the Registering Authority is not empowered to conduct such adjudication on merits with reference to the registration done under the provisions of the Registration Act.

6. To cancel a document, the Registering Authority is conducting summary proceedings. If any fraud or impersonation is apparent on record, then alone the document registered can be cancelled and in all other circumstances, the parties are to be relegated to the Civil Court for the purpose of adjudication of disputed issues. Therefore, sale does not include the entire consideration alone, even part payment or part payment promise also becomes a valid sale and therefore, the document registered cannot be



invalidated or cancelled by the Registering Authority, but can be done only by the Competent Civil Court of Law after adjudication.

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7. However, if a check is dishonoured, the petitioner is having remedy under the Criminal Law also. When such remedies are contemplated under the Statutes and Rules, the petitioner is at liberty to work out the remedy in the manner known to law.

8. A distinction is to be drawn regarding the relief to be granted by the Registering Authority under the Registration Act and a declaration is to be made by the Civil Court that a particular document is null and void. In both the cases, the consequences may be one and the same, but the nature of adjudication is entirely different and distinguished. The District Registrar conducts summary enquiry and the Court of Law is conducting a Trial natured proceedings. Therefore, cancellation of document under the Registration Act is incomparable in respect of the declaratory relief granted by the Civil Court under the Code of Civil Procedure and Section 34 of the Specific Relief Act.



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costs.

9. With these observations, this Writ Petition stands disposed of. No

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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