



WEB COPY

W.P.No.19272 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19272 of 2023

and

W.M.P.No.18522 of 2023

C.N.K.A.Periyasamy

... Petitioner

Vs.

1.Deputy Inspector General of Registration,
Salem.

2.The District Registrar (Admin),
Salem West.

3.P.Muthuramalingam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the 2nd respondent in Ref.Na.Ka.No.10541/E4/2022 dated 21.03.2023 and quash the same.

For Petitioner

: Mr.S.Viswanathan

For M/s.Dass and Viswa Associates

For R1 & R2

: Mr.D.Ravichander

Special Government Pleader

For R3

: Mr.T.S.Vijaya Raghavan



WEB COPY

W.P.No.19272 of



ORDER

The order passed under Section 77-A of the Registration Act by the District Registrar in proceedings dated 21.03.2023 is under challenge in the present writ petition.

2. The District Registrar conducted an enquiry and passed an order holding that the document has been registered fraudulently. The order impugned itself states that the petitioner in the event of any grievance may prefer an Appeal before the Appellate Authority under Section 77-B of the Registration Act. Instead of exhausting the Appellate remedy contemplated under the Statute, the petitioner has chosen to file the present writ petition.

3. Exhausting an Appellate remedy is the Rule. Dispensing with the Appellate remedy is an exception. The factual findings of the Original Authority and the Appellate Authority would be of greater assistance to the High Court for the purpose of the exercise the powers of judicial review in an effective manner. More so, the parties need not be deprived of their right of Appeal unnecessarily, since the appellate remedy is also efficacious. Thus, the petitioner is at liberty to file an appeal under Section 77-B of the Registration



Act for the purpose of redressal of his grievances.

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4. The learned counsel for the petitioner made a submission that the civil suit is pending between the parties. The pendency of the civil suit is not bar for the Appellate Authority to consider the Appeal within the ambit of the provisions of the Registration Act. The cancellation of registered document would arise only if there is a fraud or impersonation identified with reference to the provisions of the Registration Act and thus, there is no impediment for the Appellate Authorities to consider the Appeal.

5. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

17.07.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order



To

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W.P.No.19272 of





WEB COPY

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S.M.SUBRAMANIAM, J.

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W.P.No.19272 of 2023

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