



WEB COPY



W.P.No.19256 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19256 of 2023 &
W.M.P.Nos.18500 & 18501 of 2023

Mumtaj

...Petitioner

Vs.

1.The District Registrar (Registration),
Krishnagiri District

2.K.S.Ramanujam

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned show cause notice issued by the first respondent in Ref.No.Na.Ka.No.3919/u/2022 dated 30.09.2022 and quash the same.

For Petitioner : Mr.T.Arockiadass
for M/s.Dass and Viswa Associates

For Respondent 1 : Mr.G.Krishna Raja,
Additional Government Pleader

For Respondent 2 : Mr.Adarsh Ramanujam



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ORDER

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2. The second respondent submitted a complaint under section 77A of the Registration Act for the purpose of cancelling the sale deed executed at the instance of the writ petitioner. The District Registrar in order to provide opportunity to the parties issued notice on 30.09.2022 enabling them to submit their defence or documents, if any. The petitioner has challenged the said notice mainly on the ground that there is no prima facie case for the purpose of cancelling the document as the disputed issues between the parties cannot be adjudicated by the District Registrar under the Registration Act.

3. The complaint under section 77A is to be enquired into, no doubt by affording opportunity to the parties concerned. The authority competent is empowered to cancel the document under section 77A of the Registration Act, only if there is any fraud or impersonation apparent on record. Such



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fraud or impersonation must be within the ambit of sections 32 to 35, 36 and 39 of the Registration Act. In the event of any disputed fact regarding the title or ownership or otherwise, the competent authorities are bound to relegate the parties to approach the competent Civil Court of law for the purpose of resolving their issues.

4. As far as the present writ petition is concerned, the grounds raised by the petitioner cannot be adjudicated on merits. The Power of Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure the process through which the decision has been taken by the competent authority in consonance with the statutes and rules in force, but not in decision itself. Therefore, the disputed facts of civil nature cannot be adjudicated in the writ proceedings.

5. The complaint submitted by the second respondent has also been taken on file and the District Registrar is in process of conducting enquiry.

6. No writ against an enquiry notice is entertainable, unless such notices are bristled with the allegations of jurisdiction or tainted with



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malafides. In all other circumstances, the parties are bound to defend their case by availing the opportunities to be provided by the enquiring authority. This being the principles to be followed.

7. The petitioner is at liberty to defend her case by producing document and defence statement or otherwise. It is needless to state that the fraud or impersonation must be understood within the ambit of provisions of Registration Act and thus, the petitioner has to defend his case in the manner contemplated.

8. With these observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2023

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Index : Yes

Speaking order

Neutral Citation: Yes



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To

1.The District Registrar (Registration),
Krishnagiri District



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S.M.SUBRAMANIAM, J.

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