



W.P.No.19962 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19962 of 2022

and

W.M.P.Nos.19255 of 2022 & 23279 of 2023

1.N.Thangaraj
2.N.Mani
3.N.Loganathan
4.N.Ayyathurai

...Petitioners

Vs

1.The Deputy Inspector General of Registration,
Race Course,
Coimbatore – 18.

2.The District Registrar [Administration],
Tiruppur, Tiruppur District.

3.The Sub-Registrar,
Uthukulli,
Tiruppur District.

4.Pappal
5.Poongodi

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records of the



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respondents which culminated in the impugned order of the first respondent in Na.Ka.No.1130/C2/2022 dated 04.07.2022 and quash the same as arbitrary, illegal and unsustainable.

For Petitioner	: Mr.V.P.Sengottuvel Senior Counsel for Ms.K.Indupriya
For R1 to R3	: Mr.D.Ravichander Special Government Pleader
For R4 & R5	: Ms.S.Sreenarmatha for Mr.A.Swaminathan

ORDER

The writ on hand has been instituted questioning the validity of the order passed by the first respondent in proceedings dated 04.07.2022 cancelling the partition deed registered between the petitioners under the Registration Act.

2.The said partition deed between the petitioners was registered in Document No.1932 of 2020. The respondents 4 and 5 filed a complaint before the second respondent for cancelling the document. The District Registrar/second respondent passed an order cancelling the document. The



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petitioner preferred an appeal before the first respondent who in turn confirmed the order passed by the District Registrar cancelling the partition deed registered in Document No.1932 of 2020.

3.The learned senior counsel appearing on behalf of the petitioners mainly contended that the respondents 1 and 2 have exceeded their powers conferred under the provisions of the Registration Act. The manner of adjudication done by the respondents would reveal that they have determined the civil dispute between the parties which is impermissible under the provisions of the Registration Act.

4.A perusal of the order impugned reveals that the Deputy Inspector General of Registration found certain discrepancies on the face of the Will executed. The authority has found discrepancies in the letters as well as the design found through the letters. Such a finding made merely seeing the document is beyond the scope of the powers conferred under the Registration Act to the authorities. Such discrepancies are to be established only by obtaining expert opinion through the competent civil court of law.



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5. Section 73 of the Indian Evidence Act stipulates comparison of signature, writing, or seal with others admitted or proved. Accordingly, in order to ascertain whether the signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

6. The court may direct any person present in court to write any words or figures for the purpose of enabling the court to compare the words or figures so written with any words or figures alleged to have been written by such person.

7. In the present case, the findings made in the order impugned reveals that the Deputy Inspector General of Registration merely by seeing the Will through his naked eyes found that there are discrepancies in the handwriting and the design in the letters.



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8. Admittedly, a civil suit in O.S.No.389 of 2021 is pending on the file of the Principal District Court at Tiruppur. Beyond the findings made by the authorities which is found to be perverse, Circular No.67/2011 issued by the Government also had been withdrawn. The power of cancellation was taken away during the relevant point of time. The amended Act was enacted and came into effect from 16.08.2022. The present impugned order was passed prior to the amendment. Thus, the respondents 1 and 2 had no power to cancel the document registered under the provisions of the Registration Act. For all these reasons, the impugned order passed by the first respondent in Na.Ka.No.1130/C2/2022 dated 04.07.2022 is quashed.

9. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2023

cse

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No



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S.M.SUBRAMANIAM, J.

cse

To

- 1.The Deputy Inspector General of Registration,
Race Course, Coimbatore – 18.
- 2.The District Registrar [Administration],
Tiruppur, Tiruppur District.
- 3.The Sub-Registrar,
Uthukulli, Tiruppur District.

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