



W.P.No.20255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.20255 of 2023
and
W.M.P.No.19576 of 2023

M.A.Thiyagarajan

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Combined Registration Office Building,
Kumaragiri By-pass Road,
Ammamet, Salem – 636 014.

2.The District Registrar (Salem West)
Combined Registration Office Building,
Kumaragiri By-pass Road,
Ammamet, Salem – 636 014.

3.The Sub-Registrar,
No.3, Joint Sub-Registrar Office,
Sivathapuram, Salem.

4.N.Vijaya Basker

5.R.Kamala

6.K.Perumal

7.S.Kumudham

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8.M.Chandran

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the order passed by the 2nd respondent herein vide Na.Ka.No.11624/E4/E5/2022 dated 25.04.2023, and quash the same.

For Petitioner

: Mr.V.Manohar
for Mr.R.Lokeshwaran

For R1 to R3

: Mr.E.Sundaram
Government Advocate

ORDER

The order dated 25.04.2023 passed by the District Registrar (Salem West), is under challenge in the present writ petition.

2.Learned counsel for the petitioner mainly raised an allegation against the District Registrar on the ground that the very same District Registrar (Salem West) adjudicated the complaint given by Mr.N.Vijaya Basker and passed an order earlier in proceedings dated 18.05.2022, wherein, he has considered the facts and arrived at a conclusion that the parties have to approach the competent Civil Court of Law for the purpose



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of resolving the issues. While so, the very same District Registrar Mr.M.Manivannan entertained a complaint from the same Mr.Vijaya Basker and conducted a fresh adjudication and cancelled the document as forged. Thus, the learned counsel for the petitioner raised an allegation that the facts cannot be twisted at the instance of the officials and therefore, the District Registrar committed an act of error intentionally.

3.However, a statutory appeal is contemplated under Section 77-B of the Registration Act. Exhausting the statutory remedy is of paramount importance and the petitioner can place all the facts and records before the Inspector General of Registration for effective adjudication of issues. Exhausting statutory remedy is the rule, entertaining a writ petition by dispensing with the statutory remedy is an exception. Only in the event of gross injustice, the High Court, at its discretion, can dispense with the appellate remedy and the said exercise cannot be made in a routine manner. The very legislative intention in contemplating the appellate remedy is to be followed at all circumstances. The Original Authority and the Appellate Authority will be in a better position to verify the original records and adjudicate the issues by affording opportunity to the parties. The factual



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findings of these authorities would be of greater assistance to the High Court for exercising its power of judicial review under Article 226 of the Constitution of India in an effective manner. Disputed facts cannot be adjudicated in a writ proceedings. More so, if such writ petitions are entertained, either of the parties are losing their opportunity to adjudicate the issues effectively before the Appellate Authority. In other words, the parties are deprived of their right of appeal contemplated under the Statute and these factors are essential for the purpose of entertaining a writ petition.

4.The Inspector General of Registration is exercising quasi-judicial power and is empowered to adjudicate the facts and the legal grounds raised by the parties. If at all certain personal allegations are raised, the same are also to be considered by the Inspector General of Registration and appropriate actions are to be initiated in the manner known to law. This being the scope of the statutory appeal contemplated under Section 77-B of the Registration Act, the petitioner is at liberty to prefer an appeal as contemplated under the Statute and in the event of filing any such appeal, the Inspector General of Registration shall register the appeal, without reference to the period of limitation, assign Seniority Number, and



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accordingly, adjudicate and dispose of the matter on merits and in accordance with law, by following the procedures contemplated and by affording opportunity to all the parties.

5.It is needless to state that the office of the Inspector General of Registration must have an effective mechanism for disposal of the statutory appeals within a reasonable period of time, since the statutory appeals confer a right on the parties for speedy disposal.

6.Section 3 of the Registration Act denotes the Inspector General of Registration. Proviso clause enumerates that *“the State Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the State Government appoints in this behalf.”*

7.When the Act contemplates appointment of an additional officer in the rank of Additional Inspector General of Registration or otherwise, then the State must consider the same for the purpose of effective disposal of the



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statutory appeals which all are pending for years together. Statutory appeals are to be decided within a reasonable period of time and long pendency would cause prejudice to either of the parties on account of the sky-rocketing of market rate of immovable properties. People are in hurry in disposal of the appeals, as delay would defeat their civil rights and more so, Right to Property is a constitutional right conferred under Article 300 of the Constitution of India. Thus, the speedy disposal of the statutory appeals is a right of the parties and such right cannot be denied or the appeals cannot be kept pending for an indefinite period.

8.Considering the number of appeals pending and the volume of work involved to the Inspector General of Registration, the Government shall consider the situation and if required, additional post is to be created for the purpose of dealing with the statutory appeals for the benefit of the aggrieved persons who all are waiting for long time for disposal of their appeals. In the event of appointment of Additional Inspector General of Registration, the parties need not approach the High Court for disposal of such appeals by filing writ petitions on every occasion. Therefore, this Court is inclined to direct the Principal Secretary to Government, Commercial Taxes and



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Registration Department, Government of Tamil Nadu, to consider the issue and take appropriate action in the manner known to law.

9.With these directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

10.Registry of High Court is directed to communicate a copy of this order to the Principal Secretary to Government, Commercial Taxes and Registration Department, Government of Tamil Nadu, Secretariat, Chennai – 600 009.

10.07.2023

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Internet : Yes

Index : Yes

Neutral citation : Yes

Speaking order

S.M. SUBRAMANIAM, J.



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WEB COPY

To

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