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W.P.No.21580 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21580 of 2022

1.J.Elumalai

2.E.Pattammal

... Petitioners

Vs.

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

2.The Sub-Registrar,
Sub-Registration Office,
Cheyyur,
Chengalpattu District.

3.S.Elangovan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings dated 01.07.2022 passed in No.814/U1/2022 on the file of the 1st respondent and quash the same.



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For Petitioners	: Mr.N.Nithianandam for Mr.K.Govi Ganesan
For R1 & R2	: Mr.C.Jayaprakash, Government Advocate
For R3	: Mr.T.Sella Pandian

ORDER

The writ on hand has been instituted, questioning the validity of the order passed by the Inspector General of Registration in proceedings dated 01.07.2022.

2. The order impugned states that the document registered in favour of the writ petitioner is fraudulent and if at all the petitioner disputes title, he is at liberty to approach the competent Civil Court of law. Challenging the said order, the writ petitioner states that lands measuring 9.98 acres in SF.No28/1B situated at Nankalathur Madura, Chitharkadu Village, Cheyyur Taluk, Chengalpattu District was owned by the writ petitioner. The said lands including the larger extent of 24.52 acres vested with the Government during the year 1963, which was classified as 'Sarkar Poromboke'. Patta bearing No.782 was granted in favour of the petitioner and he is in absolute possession and enjoyment of the same.



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3. The 1st petitioner settled the property in favour of the 2nd petitioner, who is none other than his wife M/s.Pattammal. The 2nd petitioner has availed loan by depositing the title deeds before the Axis Bank and set up a Poultry Farm and was cultivating the said lands. Since the 3rd respondent interfered with the peaceful possession of the petitioner, the petitioner instituted a Civil Suit in O.S.No.109/2019 on the file of the District Munsif Court, Madurantagam for Bare Injunction and the said suit was transferred to the District Munsif Court, Cheyur and re-numbered as O.S.No.248/2020 and is pending as of now.

4. The learned counsel for the petitioners mainly contended that the Inspector General of Registration exceeded his jurisdiction by adjudicating the title disputes between the petitioner and the 3rd respondent. Declaration of the registered document as a fraudulent one can be done only if the registration is found to be fraudulent. In the present case, the Inspector General of Registration adjudicated the issues, which all are disputed between the parties and thus, the order impugned is perverse and liable to be set aside.



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5. It is not in dispute between the parties that the Civil Suit has already been instituted by the writ petitioners and is pending. Therefore, the order passed by the Inspector General of Registration is untenable as it would affect the prospects of the writ petitioner in the Civil suits.

6. The learned counsel appearing on behalf of the 3rd respondent strenuously raised an objection by stating that the 3rd respondent is the absolute owner of the subject property and the 1st petitioner was a care taker of the property and therefore he had fraudulently dealt with the property belonging to the 3rd respondent. Thus, the 3rd respondent has initiated action and filed a complaint under the Registration Act, who in turn, dealt with the issues within the ambit of the provisions of the Registration Act. Thus, there is no infirmity in respect of the findings made by the Inspector General of Registration.

7. The learned counsel for the 3rd respondent reiterated that the petitioners have systematically committed an act of fraudulence for the purpose of grabbing the subject property belonging to the 3rd respondent, who was working as a General Manager in NLC during the relevant point of



time and appointed the 1st petitioner as a care taker to look after his proposition. Thus, the writ petition is to be rejected.

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8. In respect of the fraudulent documents, threefold actions are permissible for an aggrieved person. A criminal complaint can be registered against such fraudulent registration. A Civil Suit can be instituted to establish the rights or to cancel the documents. Thirdly, a complaint before the competent authorities under the Registration Act is entertainable for the purpose of cancelling the document. All the three fold actions can be initiated simultaneously by the aggrieved person and there is no bar for proceeding with the available remedies in the manner known to law. However, the scope of three kinds of remedies available are entirely different. The power of the Civil Court for conducting trial is different and distinct under the code of Civil Procedure. The power of the police authorities to conduct investigation and prosecute the persons are distinct under the relevant criminal law, so also, the powers of the competent authorities is distinct under the Registration Act to conduct an enquiry through summary proceedings and find out, whether the document has been fraudulently registered or not. If any document has been fraudulently



registered or registered by way of an impersonation, then those documents shall be cancelled by the authorities. Therefore, the authorities competent under the Registration Act is empowered to conduct an enquiry within the scope of the provisions of the Registration Act and if there is any fraud apparent on record, then such document can be cancelled and there is no impediment for doing so.

9. During the course of such summary proceedings, it would be inevitable for the competent authorities to make certain observations regarding facts. However, those findings made with reference to the facts cannot be construed as conclusive, in view of Section 35 of the Indian Evidence Act. The parties, who are approaching the Civil Court has to establish their title or ownership independently with reference to the documents and evidences including oral evidences. Thus, the scope of summary proceedings under the Registration Act is no way comparable with the trial natured proceedings by the Civil Court. However, all these documents can be marked or produced for the purpose of establishing the case by the parties. It is for the Court concerned to adjudicate the issues on merits and in accordance with law and by affording opportunity to the



parties concerned. Contrarily, High Court in a writ proceedings, cannot go into the issues raised regarding civil disputes. In the event of any findings in this regard, the same would cause prejudice to either of the parties as the Civil Suit has already been instituted in the present case and pending before the competent Civil Court of law.

10. As far as the proceedings of the Inspector General of Registration is concerned, he had gone into the nature of the document registered and the manner in which the documents were registered between the parties. He found a *prima facie* case and accordingly declared a particular document as fraudulent and cancelled the same. Certain findings made therein, if at all to be disputed, it is for the parties to dispute the same by producing any other evidence available on record. However, in a writ proceedings, such a Roving enquiry cannot be conducted and therefore, this Court is of the considered opinion that the parties are at liberty to raise their grounds in all respects before the Civil Court, wherein the suit is pending.

11. The learned counsel for the 3rd respondent brought to the notice of this Court that he filed an Interlocutory Application for rejection of plaint.



The writ petitioners have filed an Interlocutory Application to amend the prayer in the suit. All such Interlocutory Applications are to be disposed of as expeditiously as possible. As far as the rejection of plaint under Order 7 Rule 11 of C.P.C., is concerned, it is to be disposed of at the first instance, since the maintainability of the suit is to be ascertained by the Civil Court concerned. A complaint has been made before this Court that the competent Civil Court i.e., District Munsif Court, Cheyyur despite the interim order passed by this Court in the present writ petition, has not disposed of the Interlocutory Application filed for rejection of plaint and is being adjourned periodically.

12. Casual adjournments are to be avoided by the Courts at all circumstances. Adjournments are to be granted only if the parties are able to substantiate the reasons and its genuinity. Even while adjourning the cases, reasons are to be recorded. Mechanical adjournment of cases would cause prejudice to the interest of the litigants and therefore, the Courts are expected to dispose of the cases consistently and without granting unnecessary adjournments at the instance of the parties. Sometimes litigants are seeking frequent adjournments with an idea to keep the litigations



pending for a long time, so as to enjoy undue advantage. Courts cannot pave a way to achieve such ill-motives of the litigants.

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13. In view of the facts and circumstances, the petitioners and the 3rd respondent are at liberty to pursue their case before the Civil Court, wherein the suit is pending.

14. As far as the order impugned is concerned, this Court do not find any infirmity and it is for the parties to establish their case independently in the manner known to law.

15. With these observations, the writ petition stands dismissed. No costs.

06.07.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



To

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Registration Department,
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2. The Sub-Registrar,
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S.M.SUBRAMANIAM, J.

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