



WEB COPY

W.P.No.21483 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21483 of 2023

and

W.M.P.No.20852 of 2023

G.Paramashiva

... Petitioner

Vs.

1.The District Registrar (Administration),
Office of the District Registrar,
Thiruvannamalai Road,
Krishangiri Town,
Krishnagiri District.

2.V.Chandrappa

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in Na.Ka.No.7008/U/2022 and to quash the order dated 22.06.2023 made therein in purported exercise of power under Section 77A of the Registration Act, 1908.

For Petitioner

: Mr.G.M.Ananthakumar

For R1

: Mr.C.Jayaprakash,
Government Advocate



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ORDER

The order dated 22.06.2023 passed by the District Registrar under Section 77(A) of the Registration Act is under challenge in the present writ petition.

2. The petitioner states that he has purchased the subject property in Survey No. 59/4 to an extent of 0.62 cents at Chokkanathapuram Village, Shoolagiri Taluk, Krishnagiri District vide Document No.2436 of 2013 on the file of the Sub-Registrar, Shoolagiri dated 21.06.2023. The 2nd respondent filed a complaint to cancel the said Sale Deed under Section 77(A) of the Act. The District Registrar conducted an enquiry by affording opportunity to the parties and formed an opinion that the Sale Deed executed in favour of the petitioner is a fraudulent document and accordingly, cancelled the same.

3. The learned counsel for the petitioner states that the petitioner has produced several records to establish his right but the District Registrar has failed to consider the same and accordingly cancelled the Sale Deed without considering the documents produced by the writ petitioner.



4. The order impugned passed under Section 77(A) of the Registration Act is an appealable order under Section 77(B) of the Registration Act.

5. High Court cannot adjudicate the disputed facts between the parties, which is to be done based on the documents and evidences available on record. The power of the High Court for judicial review under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the competent authority in consonance with the Statutes and Rules in force, but not the decision itself.

6. In the event of adjudication of disputed facts in a writ proceedings with reference to title or ownership of the immovable properties, either of the parties will be prejudiced or there is a likelihood of infringement of right of the parties. The title or ownership is to be decided through trial natured proceedings and the parties must be provided with an opportunity to examine and cross-examine the witnesses and to scrutinize the original documents for the purpose of crystallizing the civil rights.



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7. Therefore, High Court, in a writ proceeding cannot conduct a roving enquiry nor offer a finding to that effect, which would be detrimental to the parties and there is a likelihood infringement of right. In all such circumstances, the parties are to be relegated either to the Appellate Authority or to the Court of law for the purpose of proving their right.

8. The legislative intention to provide appellate remedy in a Statute is of paramount importance. Legislative intention cannot be undermined as nor the right of appeal to be taken away at the instance of anyone of the party. Adjudication in an appeal before the Appellate authority is efficacious and the parties will be getting an opportunity to place the facts and also the documents, enabling the appellate authority to test the correctness of the order passed by the original authority. Thus, the appellate remedy contemplated under Statutes is to be exhausted, which is the rule and dispensing with the appellate remedy is an exception.

9. In the present case, the grounds raised on merits cannot be adjudicated. Thus, the petitioner is at liberty to prefer an appeal under Section 77(B) of the Registration Act for the purpose of adjudication of



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issues. In the event of filing an appeal by the petitioner, the same shall be disposed of on merits and in accordance with law.

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10. With these observations, the writ petition stands dismissed.

Consequently, the connected miscellaneous petition is closed. No costs.

20.07.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

The District Registrar (Administration),
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S.M.SUBRAMANIAM, J.

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