



WEB COPY

W.P.No.23310 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23310 of 2023

and

W.M.P.No.22845 of 2023

R.Mukthar Ahamed

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. By its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai.
- 2.The Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.
- 3.The District Registrar,
Office of the District Registrar,
Gobichetipalayam – 638 452.
- 4.The Sub-Registrar,
Office of the Sub-registrar-Thalavadi,
Mysore Trunk Road,
Thalavadi,
Erode District.
- 5.The Tahsildhar,
Thalavadi Taluk,
Erode District.



6.Magbul Sheriff

7.Hussain Sheriff

8.Rahamath Sheriff

9.Langada @ Rahmath Sheriff

10.Peer Sheriff

11.Rajiya Begam

12.Kaleel Sheriff

13.Amanullah Sheriff

14.Archiya

15.Mubarauk

16.Aslam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to quash the order of the 3rd Respondent in Na.Ka.No.1932/A3/2023 dated 15.05.2023, and consequently direct the 3rd Respondent to cancel the registration of the Judgment and decree dated 20.07.1995 in A.S.No.56 of 1993 in Doc.No.679 of 2023 dated 12.04.2023.

For Petitioner : Mr.M.Roshan Atiq

For Respondents 1 to 5 : Mr.D.Ravichander,
Special Government Pleader



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ORDER

The order impugned dated 15.05.2023 rejecting the complaint of the writ petitioner submitted under section 77A of the Registration Act is under challenge in the present writ petition.

2. The petitioner states that in respect of the subject property, a decree was passed in A.S.No.56 of 1993. The decree holder registered the said decree as document No.679 of 2023 dated 12.04.2023. On account of the registration of the decree, the petitioner is prevented from dealing with the subject property and the petitioner accordingly, submitted an application under section 77A of the Registration Act to cancel the document No.679 of 2023.

3. The District Registrar rejected the complaint mainly on the ground that the decree issued by the competent civil court of law cannot be cancelled by adjudicating the issues on merits. In other words, the authorities competent found that they cannot interfere with the contents in the decree for the purpose of conducting an enquiry so as to cancel the registration.



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4. No doubt, if there is any procedural violation in registering the decree, that can be interfered with by the registering authority or by the competent authority. However, the authorities under the Registration Act cannot adjudicate the decree of the civil court on merits.

5. The learned counsel for the petitioner brought to the notice of this Court that another application was filed before the civil court by the respondents 6 to 16 under Order 21 Rule 97 of CPC. The said petition was dismissed. Therefore, the decree granted in A.S.No.56 of 1993 is non executable. If so, the petitioner is at liberty to register the said order passed under Order 21 Rule 97 of CPC under the provisions of the Registration Act.

6. In this context, section 23 speaks about the time for presenting documents and indicates that a copy of the decree or order may be presented within four months from the date on which the decree or order was made or where it is appealable within four months from the date on which it becomes final.

7. Therefore, any order passed subsequent to the decree passed in A.S.No.56 of 1993 is also registrable and thus, the petitioner is at liberty to



present the said order passed subsequently after the decree, for registration.

In such circumstances, the registering authority has to consider and register the same in accordance with the provisions of the Registration Act.

8. However, this Court do not find any infirmity in respect of the reasons stated in the impugned order and consequently, the impugned order stands confirmed.

9. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

09.08.2023

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Index : Yes

Neutral Citation : Yes

Speaking order



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To

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S.M.SUBRAMANIAM, J.

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