



WEB COPY



W.P.No.27614 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27614 of 2023

and

W.M.P.Nos.27071 & 27073 of 2023

1.A.Adhinarayanane

2.A.Deivasigamani

3.V.Sandira

4.S.Gnanasoundary

5.S.Thangeswary

... Petitioners

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The Deputy Inspector General of Registration,
Cuddalore.

3.The District Registrar (Admin),
Tindivanam,
Villupuram District.

4.The Sub-Registrar,
Vanur, Villupuram District.



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5.S.Kamaraj

6.K.Emilia Karniya

7.N.Sankar

8.V.Lakshmi

9.N.Aiyanarappan

10.Balamurugan

11.Ramesh

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the 3rd respondent pertaining to Na.Ka.No.3717/Aa1/2023 dated 13.07.2023 and quash the same and direct the 3rd respondent to conduct the enquiry afresh.

For Petitioners

: Mr.N.Manikandan

For R1 to R4

: Mr.G.Krishnaraja,
Additional Government Pleader.

ORDER

The order dated 13.07.2023 issued by the District Registrar, Tindivanam under Section 77-A of the Registration Act is under challenge in the present writ petition.



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2. The petitioners claim title over the subject property described in the present writ petition. The learned counsel for the petitioner pointed out certain discrepancies in the findings made by the District Registrar in the impugned order. Admittedly, an appeal has been contemplated under Section 77-B of the Registration Act, which is to be filed before the competent Appellate Authority. In spite of preferring an appeal, the petitioner has chosen to file the present writ petition.

3. Exhausting the Appellate remedy is of paramount importance. Since an appeal is the continuation of the original proceedings the Appellate Authority is empowered to call for the entire files adjudicating the facts and the legal grounds raised between the parties for the purpose of determining the issues raised between the parties. The factual findings of the Original Authority and the Appellate Authority are of greater assistance to the High Court for the purpose of exercise of powers of Judicial review under Article 226 of the Constitution of India in an effective manner.

4. Aggrieved person need not be deprived of their right of appeal



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contemplated under the Statutes. High Court cannot conduct a roving enquiry in respect of disputed issues, which is to be done based on the documents and evidences available on record. Such factual discrepancies pointed out by the petitioners in the present writ petition are to be established before the Appellate Authority based on the documents and evidences available on record. Contrarily, the High Court cannot decide the disputed issues in the writ proceedings.

5. The power of Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure that the processes through which the decision has been taken by the Competent Authority is in consonance with the Statutes and Rules in force, but not the decision itself. Therefore, exhausting the Statutory remedy is the Rule, entertaining a writ petition by dispensing with the alternate remedy is an exception.

6. In the present case, an appeal provided under Section 77-A of the Act is an efficacious remedy. Therefore, the aggrieved party has to approach the Appellate Authority for the purpose of adjudication of issues for resolving the disputes. This being the principles to be followed, the petitioner is at liberty to prefer an appeal before the Competent Appellate Authority, who in



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turn on receipt of the same, shall decide the issues by following the procedures as contemplated under the provisions of the Statutes and Rules in force.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

21.09.2023
(1/2)

veda/jeni

Index : Yes
Speaking order
Neutral Citation : Yes

Note: Registry is directed to return the original copy of the impugned order.



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To

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S.M.SUBRAMANIAM, J.

veda/jeni

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