



W.P.No.10989 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.10989 of 2017

T.Ramachandran

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Mylapore, Chennai – 600 004.

2.The District Registrar,
Office of the District Registrar,
(In the cadre of AIGR),
No.1, Moorthigal Lane,
Chennai North,
Chennai 600 001.

3.The District Registrar,
Office of the District Registrar,
Chennai Central,
42, Bharathi Salai (Pycrofts Road)
Royapettah – Chennai – 600 014.

4.The Sub-Registrar,
Periamet, Chennai – 600 003.

5.The Sub Registrar,
Sowcarpet, 12, Davidson Street,
Broadway, Chennai – 600 001.

6.L.Sukumar



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7.N.Adhimoolam

8.T.Jeganathan

... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings No.9503/A5/2015 dated 19.5.2016 passed by the third respondent and quash the same as illegal and against law and direct the respondent department to properly conduct an investigation and enquiry in accordance with law as to the forged power of attorney dated 23.10.2009 registered as doc.No.516/BIV/2009 SRO Sowcarpet and cancel the document.

For Petitioner : Mr.K.V.Ananthakrushnan

For Respondents : Mr.D.Ravichander
Special Government Pleader for R1 to R5

: Not ready in notice for R6 & R7

: No appearance for R8

ORDER

The order dated 19.05.2016 passed by the District Registrar North Chennai rejecting the complaint given by the petitioner is sought to be quashed in the present writ petition.

2. The petitioner states that a fraudulent power of attorney has been registered behind his back and in this regard the petitioner submitted a complaint to the District Registrar to conduct an enquiry and cancel the document and consequently initiate all appropriate



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proceedings. The District Registrar based on the Circular No.67 dated 03.11.2011 conducted an enquiry and made a finding that “It is not in dispute that for the same allegation criminal proceeding has been initiated. It is not open to the respondents to initiate parallel prosecution for an offence committed under the Act, as it would be hit by the principle of double jeopardy as a person cannot be tried for the same offence twice nor parallel proceedings are permissible in law“.

3. The findings made by the District Registrar is running counter to the principles of law established. A person aggrieved from and out of any fraudulent document registered under the Registration Act is entitled to initiate three-fold actions. An aggrieved person may prosecute a person who committed such fraudulent or impersonation, a civil suit may be instituted, or he may submit an application before the competent authority for cancellation of document under the Registration Act. All the three-fold actions are permissible simultaneously and there is no impediment for an aggrieved person to institute a criminal case and file a complaint for cancellation of document. That being the principles to be followed, the District Registrar has made a finding that the parallel prosecution for an offence cannot be undertaken. In the present case, the



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petitioner has already filed a complaint under the Registration Act based on the Circular. Institution of prosecution under criminal law is unconnected with the relief sought for before the District Registrar to cancel the document based on the complaint.

4. The learned Special Government Pleader brought to the notice of this Court that the said Circular conferring power on the District Registrar in Circular No.67 had already been withdrawn and therefore, if at all the petitioner wishes to establish his case, he has to file a fresh complaint under the amended provisions of the Registration Act.

5. Under Section 77-A of the Registration Act, the petitioner is at liberty to file a fresh complaint before the jurisdictional District Registrar for conducting an enquiry through summary proceedings and by affording opportunity to all the parties and pass appropriate orders.

6. As far as the rejection of complaint which is impugned in the present writ petition is concerned, the reasons stated by the District Registrar are neither candid nor convincing and therefore, the impugned order passed by the 3rd respondent in Proceeding No.9503/A5/2015 dated



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19.05.2016 is quashed. The petitioner is at liberty to file a fresh complaint before the District Registrar concerned for conducting an enquiry in the manner contemplated under the provisions of the Registration Act and Rules. In the event of filing any such complaint, the authority concerned shall adjudicate the same on merits and pass appropriate orders as expeditiously as possible.

7. With the above observations, the Writ Petition stands allowed.

However, there shall be no order as to costs.

30.06.2023

Index : Yes / No

Speaking order : Yes / No

Sgl

To

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S.M. SUBRAMANIAM, J.

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