



WEB COPY

W.P.Nos.28673 and 28



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.28673 and 28678 of 2023
and
W.M.P.Nos.28221 and 28226 of 2023

Mr.Naval Chordia
Mr.Vinith Chordia

... Petitioner in W.P.No.28673 of 2023
... Petitioner in W.P.No.28678 of 2023

Vs.

1.The District Registrar (Administration),
Office of the District Registrar,
Chengalpattu.

2.Mr.G.Elumalai ... Respondents in both W.P.s.

Common 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.5746/3/2023 and quash the notice dated 18.08.2023 issued therein.

For Petitioners

: Mrs.Hema Muralikrishnan
(in both W.Ps)

For R1

: Mr.T.Arunkumar,
Additional Government Pleader
(in both W.Ps)

COMMON ORDER

The enquiry notice dated 18.08.2023 issued by the District Registrar under Section 77-A of the Registration Act is under challenge in these Writ Petitions.



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2. The main contention of the writ petitioners is that the complaint given by the 2nd respondent to cancel the document under Section 77-A of the Registration act is untenable in view of the fact that the Civil Court decree in O.S.No.10 of 2016 operates against the 2nd respondent. When the Civil Court passed a Decree in favour of the writ petitioner, there is no reason whatsoever to entertain an application to cancel the document under Section 77-A of the Registration Act.

3. The learned counsel for the petitioners mainly contended that the complaint was entertained beyond the permissible limit and therefore, the very notice issued is liable to be set aside.

4. No writ against an enquiry notice is entertainable unless such notice has been issued by an incompetent authority having no jurisdiction or condition with the allegations of *malafides*. The grounds raised on merits are to be placed before the Appellate Court for the purpose of adjudication and quashing of the notice would cause prejudice to the interest of the parties and the parties may not be in a position to place their records and evidences, enabling the authorities to consider the same and take a decision and pass orders by following the procedures as



contemplated. Contrarily, Writ Court, if started to entertain with the enquiry notice on the single ground or on any other legal ground, then the other parties will be deprived of placing their facts before the authorities along with the original documents and evidences.

5. High Court cannot conduct a roving enquiry in respect of such disputed issues in a writ proceeding. The power of judicial review under Article 226 of the Constitution cannot be expanded for the purpose of examination of original documents and evidences available on record. The factual findings of the Original Authority and the Appellate Authority under Section 77-B of the Act would be of greater assistance to the High Court for the purpose of exercising the powers of judicial review in an effective manner. Therefore, exhausting the remedy contemplated is of paramount importance and quashing the notice would cause prejudice on either side of the parties. Even the legal grounds including the jurisdictional limit may be raised before the Competent Authorities, as the authorities are exercising the quasi-judicial powers under the Act and empowered to call for records or examine the witnesses by conducting summary proceedings.

6. The learned counsel for the petitioners mainly contended that the Civil Court Decree is in favour of the writ petitioners and therefore, complaint is not



entertainable. The scope of Civil Court Decree cannot be compared with the relief provided under the special enactment of Registration Act.

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7. In the present case, the Act contemplates several procedures for execution of certain documents and violation of procedures or fraud or impersonation within the ambit of the Registration Act is distinct and those areas can be adjudicated by the authorities competent under the provisions of the Registration Act.

8. Thus, the relief granted in favour of the Civil Court need not be compared with the scope of adjudication under the Registration act. However, the petitioners can very well rely on the Decree passed by the Civil Court for the purpose of establishing their case before the District Registrar. At the outset, all the documents and relevant evidences are to be produced enabling the authorities to consider the case of the parties.

9. In view of the facts and circumstances, the petitioners are at liberty to submit their defence statement along with the documents and evidences before the District Registrar, who in turn shall conduct an enquiry by affording opportunity to all the parties and pass orders on merits and in accordance with law.



W.P.Nos.28673 and 28

10. With these observations, the Writ Petitions stand dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

WEB COPY

29.09.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

The District Registrar (Administration),
Office of the District Registrar,
Chengalpattu.



WEB COPY

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S.M.SUBRAMANIAM, J.

skr

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