



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.31407 of 2022

And

WMP Nos.30839 of 2022 and 4939 of 2023

1.Rajendran

2.Raghu @ Venkatesan

... Petitioners

Vs.

1.The District Registrar,
Thiruppadiripuliyur,
Cuddalore-607 002.

2.Prema

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records and quash the impugned proceedings of the first respondent in Na.Ka.No.4798/Aa1/2022 dated 29.06.2022.



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WP No.31407 of 2



For Petitioners : Mr.R.Guru Raj for
Mr.D.Baskar

For Respondent-1 : Mr.E.Sundaram,
Government Advocate.

For Respondent-2 : Mr.R.Sreedhar

ORDER

An enquiry notice issued by the District Registrar under Section 77-A of the Registration Act, 1908, is under challenge in the present writ petition.

2. No writ against an enquiry notice is entertained under Article 226 of the Constitution of India, unless such notice has been issued by an Incompetent Authority having no jurisdiction or tainted with the allegation of mala fides.



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WP No.31407 of 2



3. In the present case, the learned counsel for the petitioners mainly contended that the civil suit instituted between the parties are pending before the Competent Court of Law. During the pendency of the suits, the District Registrar has issued notice to conduct enquiry under Section 77-A of the Registration Act, 1908.

4. The grounds raised by the writ petitioners on merits deserve no further adjudication from the hands of this Court, since all such disputed issues are to be adjudicated based on the documents and evidences available on record. There is no bar to entertain complaint under Section 77-A of the Registration Act, 1908.

5. During the pendency of the civil suits, the scope of the civil suits and the complaint filed under Section 77-A of the Registration Act, 1908, are not comparable. It is distinct and different. The complaint filed under Section 77-A of the Registration Act, is to be adjudicated with reference to the fraud or impersonation within the meaning of the provisions



of the Registration Act.

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6. The District Registrars are not empowered to conduct any enquiry beyond the scope of the provisions of the Registration Act. If it is fraud in common parlance, then the District Registrar has to relegate the parties to approach the Competent Forum. If the fraud or impersonation is falling within the provisions of the Registration Act, 1908, then alone the Authority Competent is empowered to cancel the registered documents.

7. In the present case, notice was issued to several persons and therefore, the petitioners have to place their defence statement before the District Registrar along with the documents, if any, by availing opportunities to be provided. During the course of enquiry, the petitioners may give statement or otherwise, to defend their case.

8. This being the factum established, the petitioners are at liberty to defend their case in the manner contemplated under the provisions of the Registration Act and by availing the opportunities to be provided by the District Registrar.



9. Accordingly, the present writ petition stands dismissed.

However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

12-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

The District Registrar,
Thiruppadiripuliyur,
Cuddalore-607 002.



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WP No.31407 of 2



S.M.SUBRAMANIAM, J.

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WP 31407 of 2022

12-09-2023