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W.P.No.2047 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2047 of 2023
and W.M.P.No.2139 of 2023

K.Senthinathan

.... Petitioner

-Vs-

1.The District Registrar (Admn) Chennai-South
Office of the District Registrar, Commercial
Taxes and Registration Department
Fanepet, Nandanam, Chennai 600 035.

2.V.Seema

3.Hemaprabha Murugesan

4.R.Paranthaman

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 1st respondent in No.19144/C2/2022 dated 26.10.2022 and quash the same as arbitrary, illegal, beyond jurisdiction and against principles of natural justice.

For Petitioner : Mr.M.Kempraj

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader – for R1
Notice dispensed with – RR 2 to 4



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ORDER

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The prayer sought for herein is for a Writ of Certiorari calling for the records of the 1st respondent in No.19144/C2/2022 dated 26.10.2022 and quash the same as arbitrary, illegal, beyond jurisdiction and against principles of natural justice.

2. With regard to the documents ie., Document No.3002 of 2003 on the file of the Sub Registrar Office, Kunrathur as well as the Power of Attorney Document in Document No.96 of 2003 on the file of the said SRO, there had been a complaint given by the 2nd respondent against the petitioner on 16.10.2022 to the 1st respondent under Section 77A of the Registration Act to enquire into the matter to declare the documents as fraudulent documents. On receipt of such complaint, entertaining the same, the 1st respondent has sent a communication by way of summons on 26.10.2022 asking the petitioner to give a reply or show cause or documents to substantiate the case that the documents in question are genuine documents.

3. In fact, pursuant to the said summon, the petitioner had given a detailed reply on 14.11.2022 and the said reply also since has been filed before the 1st respondent, as no order so far has been passed and in the meanwhile the petitioner since wanted to challenge the summon on the ground that the



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documents pertaining to the year 2003 cannot be challenged after this long years on the ground of fraud and therefore Section 77-A of the Registration Act cannot be invoked in this case, on that footing the petitioner has chosen to challenge the said summon dated 26.10.2022 issued by the 1st respondent.

4. Reiterating the aforesaid, Mr.M.Kempuraj learned counsel for the petitioner seeks the indulgence of this Court.

5. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents, who would submit that, insofar as the power vested with the District Registrar under Section 77-A of the Act is concerned, it is a quasi judicial power under which whatever complaint has been received by the District Registrar against any document already been registered with an allegation that it is fraudulent or bogus document within the meaning of Section 22-B of the Act, the same can be enquired into by the District Registrar after giving an opportunity of being heard to both sides and ultimately a decision has to be taken. Therefore, that kind of power vested with the 1st respondent under the State cannot be denuded or taken away. Therefore, the jurisdiction cannot be questioned, he contended.

6. In view of the order that is going to be passed in this writ petition,



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notice to the 2nd respondent is dispensed with.

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7. I have heard the learned counsel for both sides and have perused the materials placed on record.

8. As has been rightly pointed out by the learned Additional Government Pleader, it is the quasi judicial power vested with the District Registrar under Section 77-A of the Act. Therefore, if at all any complaint is received by the District Registrar against any document registered against anyone who was instrumental to such registration making an allegation that it is a fraudulent or bogus document, certainly such complaint has to be entertained and after due enquiry quietus has to be given to the issue by the District Registrar concerned. Therefore, that kind of power being a quasi judicial power, by way of the recent amendment made in the Registration Act, especially under Section 77-A of the Act cannot be said to be a power which cannot be employed against the document registered in the year 2003. That kind of demarcation has never been made in the said provision of law by the legislature. Therefore, that kind of argument is liable to be rejected.

9. In that view of the matter, this Court is inclined to dispose of this writ



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petition with the following order.

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“That there shall be a direction to the 1st respondent to proceed with the complaint given by the 2nd respondent, however, by taking into account the reply / defence given by the petitioner dated 14.11.2022 and by giving an opportunity of being heard to the petitioner as well as the 2nd respondent, the issue raised in the said complaint can be decided by the 1st respondent within the meaning of Section 77-A of the Act within eight weeks from the date of receipt of a copy of this order.”

10. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

30.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

The District Registrar (Admn) Chennai-South
Office of the District Registrar, Commercial
Taxes and Registration Department
Fanepet, Nandanam, Chennai 600 035.



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R. SURESH KUMAR, J.

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