



W.P.(MD)No.19582 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.19582 of 2021

N.R.Krishnamoorthy Raja

... Petitioner

Vs.

1.The District Registrar (Admin),
Virudhunagar District, Virudhunagar.

2.The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District,

3.V.N.Ramasamy Raja

4.P.B.Ganesh Singh Raja

5.R.S.Raju

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus, by calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No. 1453/Aa4/2020 dated 18.08.2021 and quash the same and to further direct the 1st respondent to enquire and take action on the complaint dated



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03.06.2020 given by petitioner as directed by this Court in W.P.(MD)No. 14075/2020 dated 09.10.2020.

For Petitioner	: Mr.S.Natarajan Senior Counsel for Ms.Viayakumari Natarajan
For R-1 & R-2	: Mr.K.S.Selva Ganesan, Additional Government Pleader
For R-3 & R-5	: Mr.R.Ramadurai
For R-4	: No Appearance

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the first respondent in Na.Ka.No.1453/Aa4/2020 dated 18.08.2021 and for a consequential direction to the first respondent to take action based on the complaint given by the petitioner on 03.06.2020.

2. Heard the learned counsel on either side.

3. The case of the petitioner is that the fourth respondent through a sale deed dated 08.06.2015 registered as Document No.2157 of



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2015 on the file of the second respondent, executed a fraudulent deed in favour of the fifth respondent and conveyed the subject property. According to the petitioner, the third respondent originally claimed that he is entitled for five cents of land in T.S.No.24 and he attempted to interfere with the possession and enjoyment of the property. A suit was filed in O.S.No.329 of 1995 before the Additional District Munsif Court, Srivilliputhur. This suit was filed by the petitioner and five others seeking for the relief of declaration of title and for permanent injunction. In that suit, one of the issue that was dealt with by the Court was as to whether the third respondent herein has any right over five cents of land which he was claiming to be the owner. While deciding this issue, the Civil Court categorically held that the third respondent herein does not have any right over five cents of land and he was not even in possession and enjoyment of the same. Ultimately, the suit filed by the petitioner and others was dismissed and it was confirmed up to this Court in the Second Appeal.

4. In spite of the adverse finding given against the third respondent, he proceeded further to execute a sale deed in favour of the fourth respondent dated 20.12.2007 and in turn, the fourth respondent



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executed a sale deed in favour of the fifth respondent on 08.06.2015 and according to the petitioner, all these documents are fraudulent documents.

5. The petitioner states that the third respondent in spite of suffering an adverse finding before a competent Civil Court, proceeded to deal with those five cents of land and hence, the petitioner gave a complaint before the first respondent to take action against the private respondents. Since no action was taken, the petitioner filed W.P.(MD).No. 14075 of 2020 before this Court. This Writ Petition was disposed of by an order dated 09.10.2020 and the relevant portion in the order is extracted hereunder:

“4. Considering the facts and circumstances of the case and without expressing any opinion on the merits of the matter, this Court is inclined to pass the following order:

“The first respondent is directed to consider the Complaint of the petitioner dated 03.06.2020 and pass orders in accordance with law, particularly, by taking note of Section 68(2) of the Registration Act, 1908, and thereafter, the concerned authority may invoke Section 83 of the said Act. The said exercise shall be done within a



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period of four months from the date of receipt of a copy of this order.”

6. Pursuant to the above order, the enquiry was conducted by the first respondent and the first respondent through the impugned order dated 18.08.2021, rejected the complaint. Aggrieved by the same, the present Writ Petition has been filed before this Court.

7. The learned Senior Counsel appearing on behalf of the petitioner submitted that as against the adverse finding rendered against the third respondent, no appeal was filed by him and the finding has become final. In spite of the same, the third respondent has proceeded to deal with the property and created a document which is fraudulent. As a consequence, further sale deed that was executed by the fourth respondent in favour of the fifth respondent must also be construed as fraudulent. The learned Senior Counsel submitted that the tenability of this document must be seen in the light of the finding that was rendered by the competent Civil Court and that the petitioner is certainly entitled to question the same.



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8. The learned Senior Counsel further contended that the relief that was sought for by the petitioner before the first respondent was not for cancellation of the document and he had only sought for taking action against the private respondents for having created fraudulent documents. However, the first respondent has proceeded as if the petitioner has sought for the cancellation of the document and this finding of the first respondent is on the face of it illegal.

9. The learned Senior Counsel appearing for the petitioner further contended that the petitioner had produced all the relevant documents before the first respondent. But, however, the first respondent has rendered a finding as if the petitioner has not placed any documents and on that ground also, the complaint given by the petitioner was rejected. The learned Senior Counsel in order to substantiate his submission, relied upon the Judgment passed by this Court in the case of ***J.Jayaniithaa Vs. The Inspector General of Registration and others*** reported in **2021 (1) CTC 839**.



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10. This Court has carefully considered the submissions made on either side and the materials available on record.

11. The short issue that arises for consideration in the present case is as to whether the petitioner has the *locus standi* to question the document that was executed by the third respondent in favour of the fourth respondent and the further sale deed that was executed by the fourth respondent in favour of the fifth respondent, on the ground that the competent Civil Court had rendered an adverse finding that the third respondent does not have any right over the five cents of land and this finding had attained finality.

12. It must be borne in mind that the petitioner along with six others had filed the suit in O.S.No.329 of 1995 before the Additional District Munsif Court, Srivilliputhur, seeking for the relief of declaration of title and permanent injunction. The declaration was sought for a larger extent of property which also included the five cents of land which was dealt with by the third respondent. While dealing with the claim made by the respective parties, the trial Court had framed issues and one of the issue



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that was framed by the trial Court was as to whether the third respondent (fourth defendant in the suit) had any right over the five cents of land and was in possession and enjoyment of the same. While dealing with this issue, the trial Court at Paragraph No.32 of the Judgment has held as follows:

□எனவே தாவா சொத்து 4வது பிரதிவாதிக்கு 5 செண்டு பாத்தியம் என்றும் கூறியுள்ள போதிலும் சர்வே எண்.297/1ல் உள்ளது என்று பி.சா.2 கூறியுள்ளார். அதற்கான எல்லைகள் என்ன என்பது தெரியாது என்பதும் ஒத்துக் கொள்ளப்படுகிறது. அது குறித்து ஆணையர் நியமனம் செய்யவோ எதிர்கோருரிமை கேட்டு மனு தாக்கல் செய்யவில்லை என்பதிலிருந்து பிராது தபசில் சொத்து 4வது பிரதிவாதிக்குப் பாத்தியப்பட்டது என்பது நிரூபிக்கப்படாத போது அது 1வது பிரதிவாதியின் அனுபவத்தில் இல்லை என்று 2வது எழுவினாவிற்கு விடையளிக்கப்படுகிறது.□

13. The trial Court has ultimately dismissed the suit filed by the petitioner and others and this Judgment and Decree was confirmed up to this Court in the Second Appeal. The main contention that was put forth



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by the learned Senior Counsel appearing on behalf of the petitioner is that an adverse finding was rendered against the third respondent to the effect that the third respondent was not in possession and enjoyment of the property and did not prove his right over the property and in spite of the same, the third respondent has dealt with the very same property by executing a fraudulent sale deed in favour of the fourth respondent.

14. It is now a settled law that an Appeal will not lie against a mere finding of a Court. After the amendment made to the Code of Civil Procedure in the year 1976, a Cross Objection will be maintainable against an adverse finding under Order 41 Rule 22 of C.P.C., and a party will be entitled to support the Decree in his favour and in the Cross Objection, he can agitate the adverse finding against him. The necessity to file a Cross Objection will arise only when the impugned Decree is partly in favour and partly against. Where a Decree is entirely in favour of a party, though there is an adverse finding against the party, he need not file a Cross Appeal or a Cross Objection. In fact, he will be entitled to question the adverse finding in the Appeal that is filed by the other side, who has lost in the suit. Useful reference can be made to the Judgment of the Hon'ble



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Apex Court in the case of ***Saurav Jain and Others Vs. A.B.P.Design and Others*** reported in ***2022 (1) CTC 235***. Useful reference can also be made to the Judgment of this Court in the case of ***Suresh Kumar kankariya Vs. K.Jigibai*** reported in ***2022 2 LW 799***.

15. In the instant case, there is no doubt that there was an adverse finding as against the third respondent (fourth defendant in the suit) touching upon his right over the five cents of land. This finding was rendered in a suit that was filed by the petitioner, wherein, the petitioner and others had sought for a declaration for a larger extent of land including the five cents which was claimed by the third respondent. Ultimately, it was found that the petitioner and others are not entitled for the relief for the entire extent of lands including the five cents. Therefore, the question boils down as to whether the petitioner in spite of losing in the civil proceedings can question the document that was executed by the third respondent in favour of the fourth respondent on the ground that there was an adverse finding against the third respondent. It must be kept in mind that the finding rendered in the civil proceedings will ultimately merge with the final decision that is taken by the Court while decreeing or



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dismissing the suit. The finding rendered by the Civil Court cannot independently hang in the air and it will have the same fate that the suit suffers. Hence, it will be too difficult to keep holding to an adverse finding in the civil proceedings where ultimately the suit itself was dismissed and it was confirmed up to the High Court.

16. The next question is regarding the *locus standi* of the petitioner. It is now too settled that a person who is invoking the jurisdiction under Article 226 of the Constitution of India must show that his personal or individual right has been affected in order to maintain a Writ Petition. The only exception for this Rule is where a writ has been filed for issuance of Habeas Corpus or for Quo Warranto or where a Writ Petition has been filed in Public Interest. Useful reference can be made to the Judgment of the Hon'ble Apex Court in the case of ***Vinoy Kumar Vs. State of Uttar Pradesh and others*** reported in ***AIR 2001 SC 1739***. Useful reference can also be made to the Judgment of the Hon'ble Apex Court in the case of ***Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and others*** reported in ***(2012) 8 MLJ 679 at page 683***. A Division Bench of this Court also had an occasion to deal with the term as to who is an



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aggrieved person for maintaining a Writ Petition. This Judgment was in

the case of ***P.H.C.M.Gandhi, President, Rica Employees Union (AICTU),***

(Registration No.953/NAT), Mnaithaneyakoodam 17, Sindhu Garden

Gandhi Nagar, Vellore-632 006 Vs. Chairman, Board of Management of

the Academy of Prisons and Correctional Administrations, Thorapadi,

Vellore-632 002 Tamil Nadu and Others reported in ***(2017) 2 MLJ 1.***

The relevant portions are extracted hereunder:-

“115. In the light of the rules, approved by the participating states, it is our considered view that, the Board of Management, is empowered to decide, as to which of the service conditions, followed in each of the participating state should be adopted. APCA is a society registered under the Societies Registration Act, 1975. If the condition of the petitioner is accepted, then the age of superannuation, 56 years, as fixed by Government of Kerala, both for inferior and superior service, could have been accepted by APCA, but that is not the case on hand. Even taking it for granted, there is a disparity in the age of retirement for superior or inferior service, as the case may be, the petitioner cannot be said to be the person aggrieved, by the order, relieving some of the employees from service, on



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attaining the age of retirement at 58 years, and hence, cannot maintain a writ petition. At this juncture, it is worthwhile to consider a decision in Jasbhai Motibhai Desai vs Roshan Kumar, Haji Bashir Ahmed reported in 1976 (1) SCC 671, as to who is an aggrieved person. In Jasbhai Motibhai Desai's case (cited supra), the Hon'ble Supreme Court has carved out the meaning for the words, "person aggrieved" or "aggrieved person", from English Judgements and other Apex Court judgments and the same are extracted hereunder:

"12. According to most English decisions, in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be an "aggrieved person" and, in a case of defect of jurisdiction, such a petitioner will be entitled to a writ of certiorari as a matter of course, but if he does not fulfil that character, and is a "stranger", the Court will, in its discretion, deny him this extraordinary remedy, save in very special circumstances.

13. This takes us to the further question: Who is an "aggrieved person" and what are the



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qualifications requisite for such a status? The expression "aggrieved person" denotes an elastic, and, to an extent, an elusive concept. It cannot be confined within the bounds of rigid, exact and comprehensive definition. At best, its features can be described in a broad, tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English Courts have sometimes put a restricted and sometimes a wide construction on the expression "aggrieved person". However, some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or 'standing' to invoke certiorari jurisdiction.

14. We will first take up that line of cases in which an "aggrieved person" has been held to be one 114 who has a more particular or peculiar interest of his own beyond that of the general public, in seeing that the law is properly administered. The leading case in this line in



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Queen v. Justices of Surrey [(1870) 5 QB 466] decided as far back as 1870. There, on the application by the highway board the Justices made certificates that certain portions of three roads were unnecessary. As a result, it was ordered that the roads should cease to be repaired by the parishes.

15. *E, an inhabitant of one of the parishes, and living in the neighbourhood of the roads, obtained a rule for a certiorari to bring up the orders and certificates for the purpose of quashing them on the ground that they were void by reason of the notices not having been affixed at the places required by law. On the point of locus standi (following an earlier decision Hex v. Taunton St. Mary [(1815) 3 M & S 465 : 105 ER 685], the Court held that though a certiorari is not a writ of course, yet as the applicant had by reason of his local situation a peculiar grievance of his own, and was not merely applying as one of the public, he was entitled to the writ ex debito justitiae.*

16. *It is to be noted that in this case was living in the neighbourhood of the roads were to*



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be abandoned as a result of the certificates issued by the Justices. He would have suffered special inconvenience by the abandonment. Thus had shown a particular grievance of his own beyond some inconvenience suffered by the general public. He had a right to object to the grant of the Certificate. Non-publication of the notice at all the places in accordance with law, had seriously prejudice him in the exercise of that legal right.

17. The ratio of the decision in Queen v. Justices of Surrey (supra) was followed in King v. Groom and ors. Ex Parte [(1901) 2 KB 157 : 70 LJKB 637]. There, the parties were rivals in the liquor trade. The applicants (brewers) had persistently objected to the jurisdiction of the justices to grant the ` license to one J. K. White in a particular month. It was held that the applicants had a sufficient interest in the matter to enable them to invoke certiorari jurisdiction.

18. A distinguishing feature of this case was that unlike the appellants in the present case who did not, despite public notice, raise any objection before the District Magistrate to the grant of the No-objection Certificate, the brewers



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were persistently raising objections in proceedings before the Justices at every stage. The law gave them a right to object and to see that the licensing was done in accordance with law. They were seriously prejudiced in the exercise of that right by the act of usurpation of the jurisdiction on the part of the Justices.

19. The rule in Groom's case was followed in The King v. Richmond Confirming Authority, Ex parte Howitt [(1971) 1 KB 248]. There, also, the applicant for a certiorari was a rival in the liquor trade. It is significant that in coming to the conclusion that the applicant was a 'person aggrieved', Earl of Reading C.J. laid stress on the fact that he had appeared and objected before the Justices and joined issue with them, though unsuccessfully, "in the sense that they 116 said they had jurisdiction when he said they had not".

20. In R. Toames Magistrate Court Ex parte Greenbaum [(1957) 55 LGR 129, 135 & 136 extracted in Yardley's book of English Administrative Law. 2nd Edn. at p. 228.] there were two traders in Goulston St., Stepney. One of them was Gritzman who held a license to trade on



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pitch No.4 for 5 days in the week an pitch No.8 for the other two days. The other was Greenbaum, who held a licence to sell on Pitch No.8 for two days of the week, and pitch No. 10 for the other days of the week. A much better pitch, pitch No.2, in Gulston St. became vacant. Thereupon, both Gritzman and Greenbaum applied for the grant of a licence, each wanted o to give up his own existing licence and get a new licence for pitch No.2. The Borough Council considered and decided in favour of Greenbaum and refused Gritzman who was left with his pitches 4 and 8.

21. Gritzman appealed to the magistrate. He could not appeal against the grant of a licence to Greenbaum, but only against the refusal to grant a licence to himself. Before the magistrate, the Borough Council opposed him. The magistrate held that the Council were wrong to refuse the licence of pitch No. 2 to Gritzman. The Council thereupon made out a licence for Gritzman for pitch No. 2 and wrote to Greenbaum saying that his licence had been wrongly issued. Greenbaum made an application for certiorari to court . The court held that the



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magistrate had no jurisdiction to hear the appeal. An objection was taken that Greenbaum had no locus standi. Rejecting the 117 contention, Lord Denning observed:

"I should have thought that in this case Greenbaum was certainly a person aggrieved, and not a stranger. He was affected by the magistrate's orders because the magistrate ordered another person to be put on his pitch. It is a proper case for the intervention of the Court by means of Certiorari."

22. It is to be noted that the Council had duly allotted pitch No. 2 to J" Greenbaum in the exercise of their administrative power. The Magistrate's order pursuant to which the Council cancelled the allotment. and re-allotted that pitch to Gritzman, was without jurisdiction By this illegal cancellation and reallocation Greenbaum's interest to trade on pitch No. 2, which had been duly licensed out to him was directly and prejudicially affected by the impugned action.

23. R. v. Manchester Legal Aid Committee [1952) 2 W.B.D. 413], is another case belonging



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to this group. It was held that the applicants therein were "persons aggrieved" because they were grieved by the failure of the Legal Aid Committee to give them prior notice and hearing to which they were entitled under Regulation 15(2). Thus it could be said that they had suffered a legal wrong.

24. In Regina v. Liverpool Corporation, Ex parte Liverpool Taxi Fleet operators' Association [[1972] 2 Q.B.299.], the City Council in exercise of its powers under the Town Police Clauses Act, 1847, limited the number of licences to be issued for hackney carriages to 300. The Council gave an undertaking to the associations representing the 300 existing licence 118 holders not to increase the number of such licence holders above 300 for a certain period. The Council, disregarding this undertaking, resolved to increase the number. An Association representing the existing licence-holders moved the Queens' Bench for leave to apply for orders of Prohibition, Mandamus and Certiorari. The Division Bench refused. In the Court of Appeal, allowing the Association's appeal, Lord Denning M. R. Observed ar pp. 308, 309:



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"The taxicab owners' association come to this Court for relief and I think we should give it to them. The writs of prohibition and certiorari lie on behalf of any person who is a "person aggrieved" and that includes any person whose interests may be pre judicially affected by what is taking place. It does not include a mere busybody who is interfering in things which do not concern him; but it includes any person who has a genuine grievance because something has been done or may be done which affects him: See Attorney-General of Gambia v. N' Jie [1961] A.C. 617 and Maurice v. London County Council [1964] 2 Q.B. 362, 378. The taxicab owners' association here have certainly a locus standi to apply for relief."

25. It may be noted that in this case, the whole question turned on the effect in law of the undertaking, and whether the applicants had been treated fairly.

26. Emphasising the "very special



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circumstances" of the case, the court read into the statute, a duty to act fairly in accordance with the principles of natural justice. Thus, a corresponding right to be treated fairly was also imported, by implication, in favour of the' 119 applicants. Viewed from this standpoint, the applicants had an interest recognised in law, which was adversely affected by the impugned action. They had suffered a wrong as a result of the unfair treatment on the part of the corporation.

27. In Regina v. Paddington Valuation Officer, Ex Parte Peachy Property Corporation Ltd., [1966]1 Q.B. 880, ratepayers were held to have the locus standi to apply for certiorari, notwithstanding the fact that it could not be said that the actual burdens to be borne by the applicants fell more heavily on them than on other members of the local community.

28. In Bar Council of Maharashtra v. M.V.Dabholkar [(1975) 2 SCC 702], Bench of seven learned Judges of this Court considered the question whether the Bar Council of a State was a



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'person aggrieved' to maintain an appeal under s. 38 of the Advocates' Act, 1961. Answering the question in the affirmative, this Court, speaking through Ray C.J., indicated how the expression "person aggrieved" is to be interpreted in the context of a statute, thus:

"The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved". Again a person is aggrieved if a legal burden is imposed on him. The meaning of the 120 words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the background of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council



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under the Advocates' Act is comparable to the role of a guardian in professional ethics. The words "person aggrieved" in Sections 37 and 38 of the Act are of wide import and should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests.

29. In Rex v. Butt and anr. Ex Parte Brooke [Vol. XXXVIII(1921-22) Times Law Reports 537] , a person who was merely a resident of the town, was held entitled to apply for certiorari. Similar is the decision in Regina v. Brighton Borough Justices Ex Parte Jarvis (1954)1, Weekly Law Reports 203.

30. Typical of the cases in which a strict construction was put on the expression "person aggrieved", is Buxton and ors. v. Minister of Housing and Local Government [1961] 1 Q.B.D. 278]. There, an appeal by a Company against the refusal of the Local Planning Authority of permission to develop land owned by the Company by digging chalk, was allowed by the Minister. Owners of adjacent property applied to the High Court under s. 31(1) of the Town and



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*Country Planning Act, 1959 to quash the decision of the Minister on the ground that the proposed operations by 121 the company would injure their land, and that they were 'persons aggrieved' by the action of the Minister. It was held that the expression 'person aggrieved' in a statute meant a person who had suffered a legal grievance; anyone given the right under s.37 of the Act of 1959 to have his representation considered by the Minister was a person aggrieved, thus, Section 31 applied, if those rights were infringed; but the applicants had no right under the statute, and no legal rights had been infringed and therefore they were not entitled to challenge the Minister's decision. Salmon J. quoted with approval these observations of James T. J. in *In Re Sidebotham* [1880] 14Ch.D.458, at p.465.*

"The words 'person aggrieved' do not really means a man who is disappointed of a benefit which he might have received if some other order had been made. A 'person aggrieved' must be a man who has suffered a legal grievance, 'a man against whom a decision has been pronounced which has wrongfully deprived him of something, or wrong fully refused him



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something, or wrongfully affected his title to something."

31. Ex Parte Stott [1916] 1K B.7, is another illustration of a person who had no legal grievance, nor had he sufficient interest in the matter. A licensing authority under the Cinematography Act, 1901, granted to a theatre proprietor a licence for the exhibition of cinematograph films at his theatre. The licence was subject to the condition that the licensee should not exhibit any film if, he had notice that the licensing authority objected to it. A firm who had 122 acquired the sole right of 1 exhibition of a certain film in the district in which the theatre was situated entered into an agreement with the licensee for the exhibition of the film at his theatre. The licensing authority having given notice to the licensee that it objected to the exhibition of the film, the film applied for a writ of certiorari to bring up the notice to be quashed on the ground that the condition attached to the licence was unreasonable and void, and that they were aggrieved by the notice as 'being destructive of their property. It was held that whether the condition was unreasonable or not, the applicants were not persons who were aggrieved



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by the notice and had no locus standi to maintain the application.

32. Similarly, *King v. Middlesex Justices* (1832) 37 R. R. 594-(1832) 3 & Ad. 938, it was held that the words "person who shall think himself aggrieved" appearing in the statute governing the grant of licences to innkeepers mean a person immediately aggrieved as by refusal of a licence to himself, and not one who is consequently aggrieved, and that though the Justices had granted a licence to a party to open a public house, not before licensed, within a very short distance of a licensed public house, the occupier of the latter house could not appeal against such grant.

33. Other instances of a restricted interpretation of the expression "person aggrieved" are furnished by *R. v. Bradford on-Avon Urban District Council Ex Parte Boulton* (1964) 2 All. E. R. 492; *Gregory v. Camden London Borough Council* 123 [(1966) 1 WLR 899]; *R. v. London O.S. Ex parte West-Minister Corporation* [(1951) 2 KB 508]; *Regina v. Cardiff Justices Ex parte Cardiff Corporation*



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[(1962) 2 QB 436]."

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17. In the instant case, the petitioner was not having any right or title over the suit property which also included the five cents of land that has now been dealt with by the third respondent in favour of the fourth respondent and in turn by the fourth respondent in favour of the fifth respondent. In view of the same, the petitioner does not have the *locus standi* to question the sale deed that was executed by the third respondent in favour of the fourth respondent and in turn, by the fourth respondent in favour of the fifth respondent. The simple test to understand this issue is as to whether the petitioner will be entitled to file a civil suit against the third respondent and seek for a declaration that the document executed by him in favour of the fourth respondent is null and void and non-est in the eye of law. The answer is pretty straight forward and the petitioner cannot maintain such a suit, since the petitioner will be barred by the principles of *res judicata*. This is in view of the fact that the petitioner was held not to be entitled for the entire extent of land including five cents and therefore, the petitioner cannot once again agitate this issue insofar as the five cents of land that was dealt with by the third respondent.



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18. In the considered view of this Court, the first respondent could not have gone into this issue in exercise of his jurisdiction under Section 68(2) of the Registration Act, 1908. Ultimately, the first respondent is also bound to keep in mind the Decree that was passed by the Civil Court and the first respondent cannot pass an order by declaring the document to be fraudulent and such a finding will go contrary to the Decree that was passed by the Civil Court.

19. There is an other way for looking at this issue. Even assuming that the sale deed that was executed by the third respondent in favour of the fourth respondent and in turn, the sale deed executed by the fourth respondent in favour of the fifth respondent, does not confer any right or title to the parties concerned, the question is as to who should challenge this document. Certainly, the petitioner cannot challenge this document, since the petitioner is bound by the earlier Decree that was passed by the competent Civil Court. When that is the case, there is no question of the first respondent going into this issue and holding that the document executed by the third and fourth respondents are fraudulent and



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20. In the light of the above discussions, this Court has to certainly uphold the order passed by the first respondent and there is no ground to interfere with the same.

21. In the result, the Writ Petition stands dismissed. No costs.

22.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG
To

1.The District Registrar (Admin),
Virudhunagar District,
Virudhunagar.

2.The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District.



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N.ANAND VENKATESH, J.

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