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W.P.(MD)NO.28848 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.28848 of 2022 & 812 of 2023

and

W.M.P.(MD)Nos.22813 and 22814 of 2022 & 790 of 2023

W.P.(MD)No.28848 of 2022

E.Ramkumar Raja

... Petitioner

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The District Revenue Officer,
Thoothukudi District,
Thoothukudi.
3. The Tahsildar,
Ettayapuram Revenue Taluk,
Ettayapuram,
Thoothukudi District.
4. The Zonal Deputy Tahsildar,
Ettayapuam,
Thoothukudi District.
5. The Sub Registrar,
Sub Registrar Office,
Ettayapuram,
Thoothukudi District.
6. E.Jeyaraman

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the 3rd respondent in Na.Ka.A2/6379/2022, dated 21.11.2022 and in Na.Ka.A2/6379/2022, dated 24.11.2022 and quash the same.

For Petitioner : Ms.J.Anandhavalli

For R-1 to R-4 : Mr.M.Siddharthan,
Additional Government Pleader.

For R-5 : Mr.S.Shanmugavel,
Additional Government Pleader.

For R-6 : Mr.S.Parthasarathy,
Senior Counsel,
for Mr.T.Selvan

* * *

W.P.(MD)No.812 of 2023

N.Ajithkumar

... Petitioner

Vs.

1. The District Collector,
The District Collector Campus,
Tirunelveli.
2. The Sub Registrar,
Sub Registrar Office,
Ettayapuram,
Thoothukudi District.



3. The Tahsildar,
Ettayapuram Revenue Taluk,
Ettayapuram,
Thoothukudi District.

4. The Zonal Deputy Tahsildar,
Ettayapuram,
Thoothukudi District.

5. E.Jeyaraman
(R-5 is suo motu impleaded
vide Order dated 02.02.2023)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to release the registered sale deed dated 16.11.2022 to the petitioner within a time frame fixed by this Court.

For Petitioner : Ms.J.Anandhavalli

For R-1 & R-2 : Mr.S.Shanmugavel,
Additional Government Pleader.

For R-5 : Mr.S.Parthasarathy,
Senior Counsel,
for Mr.T.Selvan

For R-3 & R-4 : Mr.M.Siddharthan,
Additional Government Pleader.

* * *

**COMMON ORDER**

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Heard the learned counsel appearing for the writ petitioners and the learned Additional Government Pleader appearing for the official respondents and the learned Senior counsel appearing for the private respondents.

2. There are three characters in these cases; E.Ramkumar Raja, E.Jeyaraman and N.Ajithkumar. E.Ramkumar Raja and E.Jeyaraman belong to Ettayapuram Zamin family. E.Ramkumar Raja vide sale deed dated 16.11.2022 sold 6.67 cents of land in favour of N.Ajithkumar. The said document was presented for registration before the Sub Registrar, Ettayapuram. It was also registered as document No.3670/2022. The registering authority had retained the document for the purpose of conducting field inspection. At this stage, the Tahsildar, Ettayapuram, had sent communication bearing Na.Ka.No.A2/6379/2022 dated 24.11.2022 to the Sub Registrar, Ettayapuram informing him that patta transfer order dated 12.10.2019 is a fabricated document. On receipt of the said information from the Tahsildar, Ettayapuram, the Sub Registrar, Ettayapuram,



decided to not to release the document to N.Ajithkumar.

Aggrieved by these developments, E.Ramkumar Raja filed W.P. (MD)No.28848 of 2022 challenging the communication issued by the Tahsildar. N.Ajithkumar, the purchaser, filed W.P.(MD) No.812 of 2023 seeking return of the document.

3. The learned counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to grant relief as prayed for.

4. The learned Senior counsel appearing for E.Jeyaraman submitted that both the writ petitions deserve to be dismissed.

5. I carefully considered the rival contentions and went through the materials on record.

6. The Tahsildar, Ettayapuram, has not issued any direction or instruction as such to the registering authority. If he or she had done so, this Court would have definitely interfered in the matter. In very many cases, where the



registering authorities have been mandated by the officials hailing from other departments not to register any particular transaction, this Court had always intervened. But here the case is different. The Tahsildar, Ettayapuram, had only furnished certain information to the registering authority. It is open to one department to share information with another department. This inter-departmental communication cannot be the subject matter of challenge before this Court.

7. I therefore hold that E.Ramkumar Raja cannot challenge the information passed by the Tahsildar, Ettayapuram to the Sub Registrar, Ettayapuram.

8. I wanted to know from the learned Additional Government Pleader, under what provision of law, the registering authority can retain the document that had already been registered. My attention has not been drawn to any provision as such. I therefore have to necessarily hold that the Sub Registrar, Ettayapuram, is not justified in withholding the registered document.



9. However, the facts appear on record as well as the recent legal developments cannot be lost sight of. The Inspector General of Registration had issued more than one circular mandating that if the registration of any document is vitiated by fraud, the registrar can hold an enquiry and make an endorsement to the effect that the transaction is vitiated by fraud. Section 77A of the Registration Act has been introduced with effect from 16.08.2022. Section 77A of the Act reads as follows:-

“ 77-A.Cancellation of registered documents in certain cases.— (1) The Registrar, either suo motto or on a complaint received from any person, is of the opinion, that registration of a document is made in contravention of section 22-A or section 22- B, shall issue a notice to the executant and all the parties to the document and parties to subsequent documents, if any, and all other persons who, in the opinion of the Registrar, may be affected by the cancellation of the document, to show cause as to why the registration of the document shall not be



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cancelled. On consideration of reply, if any received therefor, the Registrar may cancel the registration of the document and cause to enter such cancellation in the relevant books and indexes.

(2) The power under sub-section (1) may also be exercised by the Inspector General of Registration.”

10. The document in question was registered on 16.11.2022, ie. after the introduction of Section 77A of the Registration Act. If according to E.Jeyaraman, the registration of the sale deed executed by E.Ramkumar Raja in favour of N.Ajithkumar is vitiated by fraud and having been founded on fabricated patta, then E.Jeyaraman would have the right to petition the District Registrar, Thoothukudi. It is seen from the typed set of papers, E.Jeyaraman had filed a petition under Section 77A the Act r/w. Section 68(2) of the Act before the District Registrar, Tirunelveli. N.Ajithkumar as well as E.Ramkumar Raja are figuring as respondents in the said petition.



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11. The District Registrar, Tirunelveli, is directed to hold an enquiry on the said petition dated 23.11.2022 on merits and in accordance with law and pass final order within a period of twelve weeks from the date of receipt of a copy of this order. The learned counsel appearing for the writ petitioners would strongly urge that the question of enquiry will arise only if the District Registrar is *prima facie* satisfied that the case for enquiry has been made out. The Sub Registrar, Ettayapuram, shall release the document in question to N.Ajithkumar forthwith and without any delay. I make it clear that I have not gone into the merits of the matter. All the contentions of both the parties are left entirely open. These writ petitions stand disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

09.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The District Collector,
The District Collector Campus,
Tirunelveli.
3. The District Revenue Officer,
Thoothukudi District,
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4. The Tahsildar,
Ettayapuram Revenue Taluk,
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Ettayapuam,
Thoothukudi District.
6. The Sub Registrar,
Sub Registrar Office,
Ettayapuram,
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W.P.(MD)NO.28848 OF 2022

G.R.SWAMINATHAN,J.

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W.P.(MD)Nos.28848 of 2022 & 812 of 2023

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