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W.P. No.1060 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.1060 of 2024 and
W.M.P. Nos.1120 to 1122

P.Ramamoorthi

... Petitioner

Vs.

1. The Inspector General of Registration
Registration Department
Santhome High Road,
Chennai - 600 028

2. The District Registrar
Registration Department
Coimbatore

3. The Sub Registrar
Sub Registrar Office
Mettupalayam

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned proceedings/order No.26 of 2013 dated 26.07.2013, passed by the 3rd respondent, quash the same as illegal and consequently to direct the 3rd respondent to cancel the mortgage deeds No.6140/2013 and 6166/2013 which were registered on 29.07.2013 and Settlement deed No.6116/2013 which was registered on 26.07.2013 after the protest petition/objection given by the legal owner of the property.

For Petitioner : Mr.P.Ramamoorthi (P-IN-P)



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For Respondent : Mrs.V.Yamunadevi
Special Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned proceedings/order No.26 of 2013 dated 26.07.2013, passed by the 3rd respondent, quash the same as illegal and consequently to direct the 3rd respondent to cancel the mortgage deeds No.6140/2013 and 6166/2013 which were registered on 29.07.2013 and Settlement deed No.6116/2013 which was registered on 26.07.2013 after the protest petition/objection given by the owner of the property.

2. The petitioner who appeared in person submitted that he is the owner of the property and he executed a power of attorney in favour of his wife. Subsequently, he also executed deed of cancellation of General Power of Attorney, but the 3rd respondent kept the same as pending. In the meanwhile, the above said mortgage deeds and settlement deed have been produced and the 3rd respondent, without considering the cancellation deed executed and presented by the petitioner, registered the said documents without the consent and knowledge of the petitioner. The contention of the petitioner is



that, when the cancellation is in force, the 3rd respondent/Sub Registrar cannot make entries and hence the same is not valid. The petitioner made a representation before the third respondent on 26.07.2013 and the same was rejected by the third respondent on the same day without and the petitioner was directed to approach Civil Court for his remedy, against which, the present writ petition is filed before this Court. Further the petitioner also made a representation dated 27.09.2021 before the second respondent and the second respondent by an order dated 18.04.2022 rejected the claim of the petitioner quoting the same reason as assigned by the third respondent.

3. The learned Special Government Pleader who takes notice for the respondents submitted that the said documents have been registered in the year 2013 and that the petitioner has filed this petition after a period of 10 years. Further, as per the amendment under Section 77-A of the Registration Act, the 1st respondent has issued a circular for not to conduct enquiry under Section 77-A of the Act and therefore, both the second and the third respondents have no power to conduct enquiry and cancel the documents.

4. Heard both sides and perused the materials available on record.



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5. Admittedly, the said mortgage deeds and settlement deed have been registered on 29.07.2013. The petitioner earlier approached the second respondent to cancel the registration of the said documents and the second respondent passed the order on 18.04.2022 rejecting his claim. However, the petitioner has not challenged the said order passed by the 2nd respondent dated 18.04.2022 and now he is challenging only registration of the documents said to have been registered in the year 2013. Though there was an appellate remedy before the 1st respondent against the order of the 2nd respondent, within a period of 60 days from the date of order i.e. 18.04.2022, the petitioner has not chosen to challenge the said order before the appellate forum. Now the petitioner has filed the present writ petition challenging the previous order passed by the 3rd respondent dated 26.07.2013.

6. However, as far as the enquiry regarding forged documents are concerned, subsequently there is an amendment in the Registration Act under Section 77-A of the Registration Act. The single Judges of this Court have conflicted views regarding the applicability of the said Section and therefore, the matter has been referred to the Larger Bench and the same is still pending. Subsequently, the 1st respondent has issued a circular for not to entertain the applications under Section 77-A of the Act. Therefore, the petitioner is not



entitled to the relief sought for in this Writ Petition. However, the petitioner is at liberty to work out his remedy in the manner known to law.

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7. With the above observations, this Writ Petition is dismissed at the admission stage itself. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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P.VELMURUGAN. J.

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