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W.P.No.275 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.275 of 2023
and WMP.No.269 of 2023

Mrs.Kabila

...

Petitioner

vs

The Deputy Inspector General of Registrar
(Kovai Zone)
O/o. The Deputy Inspector General of Registrar
Air Force College Road,
Race Course, Coimbatore – 18.

2.Sub Registrar
Kaniyur
Tiruppur District.

3.K.S.Ganesh

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of 1st respondent in Proceedings No.Na.Ka.927/E2/2021 dated 10.10.2022 declaring the documents No.1627/2009 as a fraudulent one as the extent of the property mentioned is excess than the previous documents and also directing the 2nd respondent that no transaction should be made considering the said document as primary document and also stating that the above such remarks be endorsed



on all the documents as primary documents relating to document No.1627/2009 and quash the same by directing the 2nd respondent to allow the petitioner to file the Rectification Deed to rectify the Typographical error in the sale deed in Doc.No.1627/2009.

For Petitioner : Mrs.Rita Chandrasekar
for R.Meenakshi
For Respondents : Mr.B.Vijay, AGP for R1 & R2.
Mr.S.S.Rajesh for R3.

ORDER

The grievance of the petitioner is that the impugned order has been passed by the first respondent holding that the document No.1627 of 2009 has been fraudulently executed and recorded that no further transfers to be effected in the Survey Number. The impugned order is passed based on the complaint given by one Lakshmanasamy on 18.07.2019.

2. According to the petitioner his father purchased the property in Doc.No.3365 of 1968 and the original pymas No.229, now S.No.111/3A. However, an extent of 1.7acres of land in possession of Lakshmanasamy has been sold in favour of the petitioner in the year 2009. Hence, he sought to cancel the document. The original authority found that it is disputed facts involved in respect of S.No. and relegated the parties to the civil Court. The authorities found that excess land has been sold, as far as such sale is



concerned, the document should be treated as a fraudulent one and restrained any further transfer in the property.

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3. Aggrieved against the same, an appeal has been filed before the 1st respondent/Deputy Inspector General of Registrar, Coimbatore, after enquiry the 1st respondent confirmed the same. Challenging the same, the present writ petition has been filed.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent and perused the materials available on record.

5. At the outset, on perusal of the order and the nature of the complaint made, on the above facts the Registrar cannot go into the question, it is purely a civil dispute, whether the pymas No.229 or not is a matter of evidence before the Civil Court, it has to be seen on the basis of the revenue records and correlation of documents before the Civil Court.

6. Merely on the oral statement of the parties and there was an excess sale made, that cannot be a ground to hold that the documents is fraudulent



one, there are several instances that the actual extent may differ with the extent mentioned in the document, the same has to be decided in the evidence.

7. The very findings of the authorities that the document is fraudulent one cannot be sustained in the eye of law, whether the fraud or fraudulent act has to be established in the manner known to law with proper pleadings and evidence. The registering authority has no power to go into the issue. The observation of the authorities with regard to the document as fraudulent document is hereby set aside.

8. In the result, the writ petition is allowed by setting aside the impugned order dated 10.10.2022 in Proceedings No.Na.Ka.No.927/E2/2021. With liberty to the petitioner to work out her remedy before the appropriate Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2024

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Deputy Inspector General of Registrar
(Kovai Zone)

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O/o. The Deputy Inspector General of Registrar
Air Force College Road,
Race Course, Coimbatore – 18.

2. Sub Registrar
Kaniyur
Tiruppur District.



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N.SATHISH KUMAR, J.

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