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W.P.No.12037 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06..06..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.12037 of 202

- 1.Mr.V.Natarajan
- 2.Mr.Charath Chander
- 3.Mrs.N.Hamsaleela
- 4.Mrs.R.Kamala

..... Petitioners

-Versus-

- 1.The Deputy Inspector General of Registration,
Kumaragiri Bye-Pass Road,
Near Kailash Manasarovar CBSE School,
Ammappettai, Salem 636 014.
- 2.The District Registrar (Admin),
Backside of RTO Office,
District Collector Office Complex,
Nallipalayam, Namakkal 637 003.
- 3.Mr.Rangarajan

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings in Na.Ka.No.5965/M6/2023 dated 27.09.2023 on the file of the 2nd respondent and to quash the same as illegal, incompetent, and ultravires.



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For Petitioner(s) : Ms.S.Yogalakshmi

*For Respondent (s) : Mr.P.Anandhakumar,
Government Advocate*

ORDER

This writ petition has been filed challenging the show cause notice dated 27.09.2023 issued by the 2nd respondent under Section 77-A of the Registration Act, 1908.

2. The show cause notice was issued merely based on the complaint given by one Rangarajan, the 3rd respondent alleging that 342.5 square feet of land belonged to him had been fraudulently sold and registered under Doc.No.148/1977, Doc.No.2329/2022 and Doc.No.2413/2022 and seeking cancellation of those fraudulent documents.

3. Heard both sides.

4. At the outset this court is of the view that the allegations contained in the complaint made by the 3rd respondent would not even constitute an offence of forgery. To cancel a document under section 77A of the Registration Act, the document should have been registered by impersonation or by committing forgery. When there is no offence of forgery, the question of entertaining the complaint by registering authority to cancel the documents under Section 77-A would not at all arise.



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5. It is also well-settled law that merely because a person sold or dealt with a property believing himself to be the owner of such property though he has no title or right over the same, such transaction would never amount to creating false document as defined under Indian Penal Code to attract the definition of forgery.

6. This aspect of matter has been elaborately dealt with by the Honourable Supreme Court in the case of **Mohd. Ibrahim v. State of Bihar**, reported in (2009) 8 SCC 751. In the said judgement, the Hon'ble Supreme Court has held that unless the document in question comes within the category of a false document as defined in Section 464 of the IPC, there cannot be a case of forgery.

7. Therefore, the show cause notice impugned in the writ petition cannot be sustained in the eye of law. The writ petition succeeds and the show cause notice impugned in the writ petition is liable to be set aside.

In the result, the writ petition is allowed. The impugned show cause notice is set aside. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To



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