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WP.No.2368 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.2368 of 2022
and W.M.P.Nos.2526 and 2529 of 2022

V.Manikandan

.. Petitioner

Versus

1.The Deputy Inspector General of
Registration,
No.100, Santhom High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai,
Tamilnadu – 600 028.

2.The District Registrar Administration,
Kanchipuram,
No.52 Orikkai Madura,
Udhayamangalam Village,
Near Anna Kudiyiruppu,
Kanchipuram – 631502.

3.The Sub-Registrar,
Office of the Sub-Registrar,
R.K.Pett,
Thiruvallur District.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional officer,
Thiruthani,
Thiruvallur District,
Tamilnadu.



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5. The Tahsildar,
Office of the Tahsildar,
R.K.Pett, Thiruvallur District.

6. The Village Administrative Officer,
Officer of the Village Administrative Office
Paivlasa Village Panchayath,
R.K.Pett Taluk,
Thiruvallur District.

7. P.Boobalan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent pertains to the impugned order dated 08.07.2020 bearing reference No.3121/A1/2019 and quash the same as illegal, consequently direct the respondents 1 to 6 not to cancel the petitioner's sale deed Doc.No.6165 of 2011, dated 19.12.2011, or mutate the revenue records from the petitioner's name to the 7th respondent's name pertains to petitioner's land bearing S.No.198/3 at Paivalasa Village, R.K.Pett without order of the competent Civil Court.

For Petitioner : Mr.P.R.Thiruneelakandan
For Respondents : Mr.L.S.M.Hasan Fizal for R1 to R3
Additional Government Pleader
Mr.P.Sathish for R4 to R6
Additional Government Pleader
Mr.E.Kannadasan for R7

ORDER

This writ petition is filed to call for the records of the 1st respondent pertains to the impugned order dated 08.07.2020 bearing reference No.3121/A1/2019 and quash the same as illegal, consequently direct the



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respondents 1 to 6 not to cancel the petitioner's sale deed Doc.No.6165 of 2011, dated 19.12.2011, or mutate the revenue records from the petitioner's name to the 7th respondent's name pertains to petitioner's land bearing S.No.198/3 at Paivalasa Village, R.K.Pett without order of the competent Civil Court.

2. The case of the petitioner is that the land bearing Survey No.198/3 to an extent of 4.83 acres originally belongs to one Ramathilagam, who had sold the same to the petitioner under the registered sale deed vide Doc.No.6165/2011 dated 19.11.2011. The petitioner was in possession and enjoyment of the said property and the revenue records also mutated in the petitioner's name and he was issued patta bearing No.1436. While so, the 7th respondent father Periyasamy had purchased 4.55 acres of land from the said Ramathilagam in Survey No.198/2 vide Doc.No.88/1995. Later, the said Periyasamy along with his son 7th respondent sold an extent of 1.22 acres to one Venkateshan under the registered sale deed Doc.No.786/1996. Thereafter, after the death of Periyasamy, the 7th respondent fabricated the sale deed in Doc.No.88/1995 and altered the original survey number from 198/2 as 198/3. Thereafter, the 7th respondent after fraudulently altered the survey number in the sale deed in Doc.No.88/1995 made representation dated 01.02.2019 to the 2nd respondent to cancel the petitioner's sale deed vide Doc.No.6165/2011.

The 2nd respondent without conducting fair and proper enquiry, vide order



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dated 08.05.2019 nullified the petitioner's sale deed. Challenging the same, the petitioner filed a writ petition in W.P.No.2373/2020 and this Court vide order dated 07.02.2020 directed both the petitioner and the 7th respondent not to alienate and create any sort of encumbrance or third party interest or part with possession. While so, the 7th respondent had created another settlement deed vide Doc.No.1725/2022 in his favour and approached the respondents 3 to 6 to cancel the patta stands in the petitioner's name as per the order of the 2nd respondent. Aggrieved by the same, the petitioner filed an appeal and the same was dismissed by confirming the order of the 1st respondent dated 08.07.2020. Challenging the same, the present writ petition has been filed.

3. It is the contention of the learned counsel for the petitioner that the impugned order cannot be sustained in the eye of law for the simple reason that the land was purchased by the 7th respondent father Periyasamy in S.No.198/2 and the same is evident that the said Periyasamy purchased the land under the registered sale deed vide Doc.No.88 of 1995. Pursuant to which, corrections were made in the certified copy and the same has been fabricated by the 7th respondent's father in the year 1996 and sold the property. Therefore, without considering these facts, the document has been cancelled.

4. Whereas, the learned counsel for the respondent would submit that as against the order of the 2nd respondent, the petitioner has filed a writ petition



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in W.P.No.2373 of 2020. However, now separate writ petition has been filed challenging the order of the Appellate Authority. Therefore, the present writ petition has to be dismissed *in limine* for suppression of material facts.

5. This Court gave its anxious consideration to the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. Admittedly, the petitioner is having title over the property and it has been sold to different person and those issues cannot be gone into by the Registering Authorities. The Registrar Office has no power to go into the issue to decide the title by way of circular order issued under Section 68(2) of the Registration Act. In ***Satya Pal Anand vs. State of Madhya Pradesh and others*** reported in (2016) 10 SCC 767, the Hon'ble Supreme Court has held that power conferred on the Registrar by virtue of Section 68 cannot be invoked to cancel the registration of the document already registered. Sections 22-A and 22-B were inserted by Tamil Nadu Act 28 of 2022 and Act 41 of 2022 respectively to prevent registration of certain category of the documents. Thereafter, Section 77-A has been brought by Act 41 of 2022 to cancel the document registered in contravention of Sections 22-A and 22-B not beyond it. Therefore, except forgery of any instrument, now the document cannot be gone into by the Registering authorities. Such being the position, this Court is of the definite view that the title cannot be decided by the Registering Authorities.



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These facts have been discussed by this Court in **W.P.No.29706 of 2022**

[G.Rajasulochana Vs. Inspector General of Registration and others] and

the Order in the writ petition is as follows:

“... 3. It is relevant to note that the object of the law of registration is to provide public notice of the transaction embodied therein. The execution of documents and its validity, the right created or extinguished is governed by the substantive law namely the Transfer of Property Act, 1882. The provisions contained in the Registration Act, 1908 relates to the factum of registration alone. The Hon'ble Supreme Court in the case of State of Rajasthan v. Basant Nahata, (2005) 12 SCC 77 has held as follows:

“The Act only strikes at the documents and not at the transactions. The whole aim of the Act is to govern documents and not the transactions embodied therein. Thereby only the notice of the public is drawn.”

4. The practice has been developed in the recent past in Tamil Nadu to entertain the applications given by the so-called affected parties to cancel all the documents under the pretext of either forgery or fraudulent transactions. The Inspector General of Registration, Government of Tamil Nadu has brought out Circular No.67 dated 03.11.2021 to deal with the fraudulent registrations through impersonation. The said circular is mainly based on the judgment of the Full Bench of the Andhra Pradesh High Court in the case of YanalaMalleshwari v. AnanthulaSayamma, reported in AIR 2007 AP 57. However, the three bench of Hon'ble Apex Court in the case of Satya Pal Anand v. State of M.P., reported in (2016) 10 SCC 767 has held that the power of the Registrar, under the Registration Act, is purely administrative and not quasi-judicial. The same is extracted hereunder:

“34. The role of the Sub-Registrar (Registration) stands discharged, once the document is registered (see Raja Mohammad Amir Ahmad Khan [State of U.P. v. Raja Mohammad

Amir Ahmad Khan, AIR 1961 SC 787]). Section 17 of the 1908 Act deals with documents which require compulsory registration. Extinguishment deed is one such document referred to in Section



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17(1)(b). Section 18 of the same Act deals with documents, registration whereof is optional. Section 20 of the Act deals with documents containing interlineations, blanks, erasures or alterations. Section 21 provides for description of property and maps or plans and Section 22 deals with the description of houses and land by reference to government maps and surveys. There is no express provision in the 1908 Act which empowers the Registrar to recall such registration. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. **The power to cancel the registration is a substantive matter. In absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question. Similarly, the power of the Inspector General is limited to do superintendence of Registration Offices and make rules in that behalf. Even the Inspector General has no power to cancel the registration of any document which has already been registered.**

5. In fact, the Hon'ble Apex Court has held that and in the absence of any express power to cancel the registered document, the Registrar has no power to cancel the document. Section 68(2) of the Registration Act, 1908 relied upon by the Registration Department to substantiate the circular in this regard, when carefully seen. Section 68(2) of the Registration Act, 1908 reads as follows:

“68. Power of Registration to superintend and control Sub Registrars.

(1) every Sub Registrar perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub Registrar is situate.

(2) Every Registrar shall have authority to issue (Whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.”



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6. *The above provision makes it clear that the said section confers power upon the Registrar to supervise and control all the acts of the Sub-Registrar. Sub-Section 2 empowers the Registrar to issue any order consistent with the Act, which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him. Similarly, the Registrar shall also have power in respect of the rectification of any error regarding the book or the office in which any document has been registered. The above power empowering the Registrar to issue any order is a power of superintendence and supervision and not a power vested to cancel the registration of the document. Therefore, relying upon Section 68(2) of the Registration Act, 1908 and issuing such circular cannot be valid in the eye of law. Unless a specific power and express provision is made in the Act empowering the Registrar to cancel the document, such powers cannot be conferred by the Inspector General of Registration by taking aid of 68(2) of the Registration Act, 1908.*

7. In view of the above settled position of law, unless the power is specifically vested with the registering authority to cancel any document and to go into the matter, there cannot be any direction to cancel the document. On cursory look of the documents filed in support of the typed set, it is very clear that in certified copy in Doc.No.88/1995 was changed as 198/3. This can be seen from the very fact that the father of the 7th respondent have sold the property based on the earlier document viz., D.No.88/1995 to the other parties in the year 1996, wherein, he asserted that what was purchased is only in S.No.198/2. Now the claim has been made as if he has purchased the property in S.No.198/3. These facts clearly indicate that only after making interpolation in the said survey number, an application has been made before the District



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Registrar. All these facts cannot be looked into by this Court and the same has to be agitated before the Civil Court. Therefore, the very order passed by the respondents stands quashed and any entries with regard to cancellation of the petitioner's document is entered in the Encumbrance Certificate to be removed forthwith.

8. Accordingly, this Writ Petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

12.07.2024

msv

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

1.The Deputy Inspector General of
Registration,
No.100, Santhom High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai,
Tamilnadu – 600 028.

2.The District Registrar Administration,
Kanchipuram,
No.52 Orikkai Madura,
Udhayamangalam Village,
Near Anna Kudiyruppu,
Kanchipuram – 631502.

3.The Sub-Registrar,

<https://www.mhc.tn.gov.in/judis>



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Office of the Sub-Registrar,
R.K.Pett,
Thiruvallur District.

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Office of the Revenue Divisional officer,
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Thiruvallur District,
Tamilnadu.

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N. SATHISH KUMAR, J.

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