



W.P.No.2473 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.2473 of 2024

R.Mohala

... Petitioner

Vs

1. The Inspector General of Registration,
100, Santhome Road, Pattinapakkam, Chennai – 600 018.
2. The Deputy Inspector General of Registration,
O/o.Deputy Inspector General of Registration,
Cuddalore.
3. The District Registrar [Admin],
O/o.the District Registrar, Cuddalore,
4. The Sub Registrar,
O/o.the Sub Registrar, Panruti, Cuddalore,
5. M.Siva
6. C.Rani

...Respondents



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Prayer :- Writ Petition filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent culminating in the Impugned Order dated 24.07.2023 bearing Na.Ka.No. 3306/Uoo/2023 passed by the 2nd Respondent and quash the same and consequently direct the 4th Respondent to remove the entries made in the encumbrance certificate in furtherance to the Impugned Order dated 24.07.2023.

For Petitioner : Mr.T.Mohan, Senior Advocate
for Mr.K.R.Arun Shabari

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader – R1 to R4

Mr.N.Palanikumar – R5 & R6

ORDER

This Writ Petition has been filed challenging the Impugned Order dated 24.07.2023 bearing Na.Ka.No.3306/Uoo/2023 passed by the second Respondent and consequently direct the fourth respondent to remove the entries made in the encumbrance certificate in furtherance to the Impugned Order dated 24.07.2023.



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2. The brief facts leading to filing of this Writ Petition is as follows:

The fifth and sixth respondents filed a complaint before the third respondent to cancel the settlement deed executed in favour of the writ petitioner on the ground that those documents are fraudulent transaction. Such a complaint was given mainly on the ground that the petitioner owned only 8 cents. However, under the pretext of certain documents the petitioner claim title over 11.2 cents. According to the fifth and sixth respondents, documents are fraudulent documents and the writ petitioner has no title to the properties. Therefore, they gave a complaint for cancellation of the document. However, original authority, viz., the third authority held that there is no provision for cancellation of the document. It is further held that unless the writ petitioner executes rectification deed, they cannot deal with the property. Challenging the said Order, an appeal has been filed before the second respondent. The second respondent also confirmed the Order passed by the third respondent. Challenging the same, the present Writ Petition has been filed.



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3. The first respondent supporting the order of the second respondent, filed a counter stating that in an earlier occasion an order has been passed by the second respondent, challenging the same a Writ Petition in W.P.No.6722 of 2023 has been filed and this Court by an Order remanded the matter to the second respondent for passing a detailed Order and accordingly, a detailed Order has been passed. Hence, opposed the Writ Petition.

4. According to the fifth respondent, the mother of the petitioner purchased only 3488 sq.ft. However they had mentioned to an extent of 5050 sq.f. land in the document without any title deeds. Therefore, according to them, the Order passed by the Registration Department is valid and prayed for dismissal of this Writ Petition.

5. The learned Senior Counsel appearing for the petitioner submitted that the authorities have no power to pass such an Order under law and the authorities cannot go into the title of the properties.



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6. It is the contention of the learned counsel for the third respondent that the suit filed in O.S.No.424 of 20024 has already been dismissed on 30.08.2017 and the appeal filed against the same in A.S.No.20 of 2017 is still pending. According to him, the Order passed by the second respondent is valid in the eye of law.

7. At the outset the manner in which Orders passed by the registration authorities is disturbing to this Court. When they have no power under the Registration Act to go into the title and decide dispute between the parties, entertaining such a complaint and conducting roving enquiry as a civil Court is highly deprecated. Except under the amended provision of Section 22A and 22B of the Registration Act, the registration authority has no power, whatsoever, to assume the power to cancel the document. Even Section 34 of the Registration Act deals with the powers of the Registration authorities, wherein also it indicate that the they cannot go into the tile. Therefore, entertaining complaint and relying section 68[2] Resgistration Act is not valid in law. Section 68 deals with



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power of the Registrar to Superintend and control of Sub Registrar and the Orders passed thereon. Therefore, considering the nature of the dispute, particularly boundary dispute and extent between the parties, the District Registrar / Inspector General of Registration deciding the rights of the parties is totally against the very Registration Act itself. Further, directing the parties to execute a rectification deed and till such time, there cannot be any transaction based on such document will virtually amount to nullifying the very document and in fact such an act is restraining a person in dealing with the property. Such an act is against the substantive provision of law and against the Transfer of Property Act. Hence, the Order suffers not only from illegality but also is without jurisdiction.

8. Accordingly, the impugned Order dated 24.07.2023 is quashed and this Writ Petition is allowed. Let the parties agitate their rights in the manner to law. The third and fourth respondents are directed to delete the entires in their records within a period of one month from the date of receipt of a copy of this Order. No costs. Consequently, connected



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miscellaneous petition is closed.

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Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

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N.SATHISH KUMAR, J.

VTC

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