



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.5504 of 2021

1. P.Sandeep
2. P.Gyanchand

.. Petitioners

Versus

1. The Inspector General of Registration,
100, Santhome High Road,
R.A.Puram, Chennai - 28.
2. The District Registrar (Administration),
Electronic complex Block III,
Thiru vi ka Industrial Estate,
Guindy, Chennai - 32.
3. The Sub Registrar,
Neelankarai,
2/92, SH 49, Kazura Garden,
Neelankarai, Chennai - 41.
4. Desingu
5. Thilagavathy
6. Faiyaz Ahamed

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent to cancel the settlement deed dated 13.05.2019 registered as Doc.No.4372 of 2019 on the file of SRO, Neelankarai executed by Mr.Desingu, the 4th respondent in favour of Mrs. Thilagavathy, the fifth respondent and Power of Attorney dated



10.06.2019 registered as Doc.No.4920 of 2019 on the file of SRO, Neelangari executed by Mrs. Thilagavathy, the 5th respondent in favour of Mr.Faiyaz Ahamed, the 6th respondent and consequently direct the third respondent to remove the entry from their records.

For Petitioner : Mr.P.Sunil Alias Sunil Prakash

For R1 to R3 : Mr.B.Vijay
Additional Government Pleader

ORDER

This writ petition has been filed seeking a direction to the third respondent to cancel the settlement deed dated 13.05.2019 registered as Doc.No.4372 of 2019 on the file of the SRO, Neelangarai, executed by the fourth respondent in favour of the fifth respondent and Power of Attorney dated 10.06.2019 registered as Doc.No.4920 of 2019 on the file of the SRO, Neelangari, executed by the fifth respondent in favour of the sixth respondent and also for a consequently direct the third respondent to remove the entry from their records.

2. According to the petitioners, the first petitioner has purchased the property bearing Plot No.102, situated at M.C.N Nagar, Thoraipakkam, Chennai in the year 1991. The second petitioner has also purchased the Plot



No.103 on 23.12.1991. According to the petitioners, some land grabbers have created a fraudulent documents and settlement deed in favour of the fourth respondent, and the fourth respondent has settled the same infavour of his wife / fifth respondent, who executed a Power of Attorney in favour of the sixth respondent. Since all the documents are fraudulently created, the petitioners seek to cancel the documents.

3. Heard both sides and perused the materials placed on record.

4. At the outset, this Court is of the view 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, and the same cannot be cancelled. Merely, because somebody claims to be the owner and dealt with the property, Section 77-A of the Registration Act cannot be invoked. It is relevant to note that the Hon'ble Supreme Court in the case of *Mohd. Ibrahim v. State of Bihar*, reported in (2009) 8 SCC 751 has held as under:

“There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he



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knows that it is not his property. But to fall under first category of “false documents”, it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.”

5. Such view of the matter, I do not find any merits in the case and this writ petition stands dismissed. No costs.

02.07.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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N. SATHISH KUMAR, J.

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