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W.P.No.11474 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.11474 of 2021

and

W.M.P.No.12208 of 2021

Vaikundam @ Sumathi

..... Petitioner

-Versus-

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.
- 2.The Deputy Inspector General of Registration,
Pallavaram, Chennai.
- 3.The Sub Registrar,
Office of the Sub Registrar,
No.4, 2nd Main Road, Subramanian Nagar,
Pallavaram, Chennai 600 043.
- 4.R.Krishnaraj
- 5.K.Thiyagesan
- 6.S.Senthilkumar

..... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to cancel the documents registered in Doc.No.759/IV/2020 dated 19.07.2010 and Doc.No.1630/2011 dated 21.03.2011 by the 3rd respondent in favour of the respondents 4 to 6.



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For Petitioner : Mr.S.Ilamvaludhi

*For Respondent (s) : Mr.B.Vijay,
AGP for RR1 to 3
R4-Tapal returned
R5 -Reported dead
R6 – No appearance*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the respondents 1 and 2 to consider the representation made by the petitioner requesting to cancel the documents registered on the file of the 3rd respondent viz., General Power of Attorney dated 19.07.2010 Doc.No.759/IV/2010 executed by the 5th respondent in favour of 4th respondent and Sale Deed dated 21.03.2011 Doc.No.1630/2011 executed in favour of 6th respondent by the 5th respondent through his power agent, the 4th respondent.

2. According to the petitioner, she owns a plot bearing No.20, measuring an extent of 3080 square feet comprised in S.No.278/1, Nanmangalam village which he purchased from one Bhuvaneswari and her legal heirs through a registered sale deed dated 27.11.1995 vide Doc.No.5883/1995 on the file of the Sub Registrar, Pallavaram. Patta also issued for the petitioner in her favour.



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However, the 4th respondent was given a power under General Power of Attorney dated 19.07.2010 by the 5th respondent to deal with the said property claiming to be the owner of the subject property having purchased it from one K.Jayaraman through a registered sale deed vide Doc.No.1751/1965 on the file of the Sub Registrar, Pallavaram and on the strength of the said power, 4th respondent sold the subject property to the 6th respondent. This, according to the petitioner, is nothing but a fraudulent transaction as there was no such document registered in the name of K.Jayaraman.

3. Heard both sides.

4. The available records would go to show that both parties claim title over the subject property on the basis of registered documents and therefore, it is for the petitioner to establish his right and title over the subject property before a civil court having jurisdiction in the manner known to law.

5. It is well-settled law that merely because a person sold or dealt with a property believing himself to be the owner of a 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. Thus, this court is of the considered view that the case of the petitioner would not fall within the scope of Section 77-A of the Registration Act, 1908. If a person deals with an immovable property claiming to be the owner of the



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property and executes a document, such transaction would never come within the ambit of Section 77-A of the Registration Act, 1908.

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 IPC, there cannot be a case of forgery.

7. This court do not find any merits in the writ petition and the same is liable only to be dismissed.

In the result, the writ petition is dismissed with the above observations.

No costs. Consequently, connected WMP is closed.

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

04..07..2024

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

2.The Deputy Inspector General of Registration,



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Pallavaram, Chennai.

3. The Sub Registrar,
Office of the Sub Registrar,
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