



W.P. No.10603 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10603 of 2024 and
W.M.P. Nos.11665 & 11668 of 2024

G.Gopal

... Petitioner

Vs

1.The Inspector General of Registration
100, Santhome High Road
Chennai - 600 028

2.The Deputy Inspector General of Registration
Department of Registration
Chennai District - 600 035

3.The District Registrar
Department of Registration
Chennai District - 600 104

4.The Sub Registrar, Ambattur
No.2, Gopala Swamy Street
Ambattur
Chennai - 600 053

5.C.Velmurugan

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order Letter No.1298/A5/2023 dated 12.04.2023 passed by the 3rd respondent and subsequently the impugned order passed by the 2nd respondent on the appeal preferred by the petitioner vide the impugned order passed in Ka. No.4067/A1/2023 dated .02.2024 and quash the same and direct the 4th respondent to register document No.10341 of 2011 and 13756 of 2011 relating to Survey No.109/3A1 situated in Madhavaram Circle, Kathirvedu village.

For Petitioner : Mr.Ashwinkumar, A.

For Respondents : Mr.P.Anandhakumar
Govt. Advocate for R1 to R4

ORDER

This writ petition has been filed to call for the records pertaining to the impugned Letter No.1298/A5/2023 dated 12.04.2023 passed by the 3rd respondent and subsequently the impugned order passed by the 2nd respondent on the appeal preferred by the petitioner vide the impugned order passed in Ka. No.4067/A1/2023 dated .02.2024, quash the same and for a direction to the 4th respondent to register document No.10341 of 2011 and 13756 of 2011



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relating to Survey No.109/3A1 situated in Madhavaram Circle, Kathirvedu village.

2. As the fifth respondent herein was not a party in the impugned order passed by the District Registrar/3rd respondent, no notice is required.

3. It is relevant to note that an enquiry has been commenced under Section 77-A of the Registration Act, 1908, pursuant to the directions given by the Ombudsman under the Tamil Nadu Local Bodies Ombudsman Act, 2014. It is relevant to note that, based on certain allegations raised by the fifth respondent herein to the Ombudsman under the Tamil Nadu Local Bodies Ombudsman Act, 2014, the Ombudsman has conducted an enquiry under the Act. Thereafter, he directed the registering authority to cancel the document. The order of the Ombudsman was challenged before this court in W.P. No.28571 of 2022, wherein this court vide its order dated 16.02.2023, set aside the order of the Ombudsman holding that he has no jurisdiction to go into that issue. Further the claim raised by the 5th respondent in the writ petition is barred under law.



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4. Despite the order of the Ombudsman has been set aside, based on the Ombudsman order, a proceeding under Section 77-A has been commenced by the District Registrar in respect of the documents registered in the year 2011 in Document Nos.10341 and 13756 of 2011 and held that the documents are fraudulent documents and therefore, no further documents should be registered.

5. Though the official respondents have entered appearance, they have not filed any counter affidavit. Heard both sides and perused the materials available on record.

6. This court has held in many judgments that the Registrar has no power to go into the title of the properties. For invoking Section 77-A of the amended Act, the document has to either fall within the ambit of Section 22-A or 22-B of the Registration Act. Therefore, unless the forgery is established, based on a mere allegation of fraudulent transaction, such document cannot be assailed or cancelled by the authorities under Section 77-A of the Act. This court in ***G.Rajasulochana Vs The Inspector General of Registration in WP.No.29706 of 2024 dated 16.04.2024*** has elaborately dealt with the powers of the Registrars to go into the fraudulent transaction under Section 77-A and



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ultimately held that the Registrars have no power to cancel the alleged fraudulent transaction. Further, another Division Bench of this court in ***Netvantage Technologies Pvt Ltd., Vs. The Inspector General of Registration and Stamps, dated 20.03.2024 made in W.A. No.3391 of 2023*** has held that Section 77-A of the Act cannot be applied retrospectively.

7. In such view of the matter, as the document was registered in the year 2011, Section 77-A cannot be applied retrospectively for that document. Further, as held by this court in ***Rajasulochana's*** case, the powers of the Registrar cannot be expanded to all the transactions, namely the fraudulent transaction. The fraud has to be established in the manner known to law and it has to be avoided by the party, who have affected by such alleged fraud. It is a matter of proof before the competent court to establish the alleged fraud. Therefore, the Registrar cannot assume the role of a civil court and go into the title.

8. Accordingly, this writ petition is allowed. The impugned Letter No.1298/A5/2023 dated 12.04.2023 passed by the 3rd respondent and subsequently the impugned order passed by the 2nd respondent confirming the



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order of the third respondent, are quashed. The 4th respondent, namely the Sub Registrar, Ambattur, is directed to register document No.10341 of 2011 and 13756 of 2011 relating to Survey No.109/3A1 situated in Madhavaram Circle, Kathirvedu village, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected writ miscellaneous petitions are closed.

13.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

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- 2.The Deputy Inspector General of Registration
Department of Registration, Chennai District - 600 035
- 3.The District Registrar
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- 4.The Sub Registrar, Ambattur
No.2, Gopala Swamy Street
Ambattur, Chennai - 600 053
- 5.The Government Pleader
High Court, Madras



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N.SATHISH KUMAR, J.

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