



WP.No.11102 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.11102 of 2024

M/s.Bhagyam Gems and Jewellery Private Limited,
Represented by its Director,
Mr.Kathiravan Krishnamoorthy

.. Petitioner

Versus

1. The Sub Registrar,
Mylapore, Chennai – 600 004.

2. The Sub Registrar,
Ambattur, Chennai – 600 053.

3. The Inspector General of Registration,
100, Santhome High Road, Chennai – 600 028.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus seeking a direction as against the second respondent to forthwith register the supplementary memorandum of deposit of title deeds dated 04.03.2024 by effacing the red flag marked over the property.

For Petitioner : Mr.R.Ananda Gomathy

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



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ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to direct the the second respondent to forthwith register the supplementary memorandum of deposit of title deeds dated 04.03.2024 by effacing the red flag marked over the property.

3. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the petitioner is that the petitioner is the successful purchaser in auction conducted by the Kotak Mahenddra Bank and the sale certificate was registered on 25.04.2022. The petitioner has also registered memorandum of deposit of title deed in favour of the Bank. When the petitioner approached the first respondent to register the supplementary memorandum of deposit of title deed, the same was refused to be registered on the ground that the subject survey numbers was flagged as per the communication of the third respondent dated 23.09.2020. Hence, the present



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Writ petition has been filed.

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The Supplementary Memorandum of Deposit of Title Deeds were refused to be registered on the ground that Superintendent of Police has issued a letter dated 22.09.2020. At the outset, this Court is of the view that unless there is an attachment by the competent authority as indicated in Section 22-B of the Registration Act, the same cannot be refused to be registered. In ***Netvantage Technologies Pvt. Ltd v Inspector General of Registration***, reported in 2024 SCC OnLine Mad 567, this Court has categorically held as follows:

“In respect of other documents registered prior to the amendment, one has to understand that those documents are to be dealt in accordance with the law prevailing at the time of registration by approaching the Civil Court of law. When all those documents registered prior to the amendment of the year 2022 are subjected to Section 77-A of the Act, then this Court is afraid that an anomalous situation would be created by approaching the District Registrar for the purpose of adjudication of disputed issues with reference to those documents registered several years back. The amendment effected from 16.08.2022 has not intended to do so nor the provision expressly provides any such retrospective application. Prior to amendment, Section 22-A and Section 22-B was not in force. Thus, Section 77-A cannot have retrospective effect. In other words, Section 77-A must be read in conjunction with Section 22-A and Section 22-B of the Act. Insertion of all these three Sections are to be understood holistically to avoid any inordinance.”



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28. In view of the above judgment of the Division Bench of this Court, Section 77-A cannot be applied retrospectively and can be applied only after the same is brought as a statute.

29. Therefore, this Court is of the view that unless the forgery is conclusively established merely on the basis of allegations of forgery, as a matter of right, a document cannot be cancelled. The forgery and fraud are essentially a matter of evidence which shall be proved as per law. Therefore, unless there is a strong evidence of impersonation or forgery, i.e., a creation of false record as defined under the Indian Penal Code, merely on the basis of allegations such documents cannot be cancelled. Section 22-B relates to forged instrument not a fraudulent transaction.”

In view of the above settled provision of law, the registering authorities cannot refuse to register a document merely on the ground that some letter has been received from the police authorities. Unless, there is an attachment by a competent authority, the registering authorities cannot refuse to register a document. In such view of the matter, the second respondent is directed to register the Supplementary Memorandum of Deposit of Title Deeds dated 04.03.2024 within a period of 15 [fifteen] days from the date of receipt of a copy of this Order.

6. With the above direction, this writ petition is disposed of. No costs.



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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

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N. SATHISH KUMAR, J.

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