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WP.No.11174 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.11174 of 2024 &

WMP.No.12247 of 2024

1. P.Kumaran
2. Malinbi

.. Petitioners

Versus

1. The Deputy Registrar [Registration],
Vellore.
2. The District Registrar [Registration],
Vellore.

3. S.Venugopal
4. R.Sivakumar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the first respondent his proceedings in Appeal No.4187/A1/2022 dated 03.02.2023 and quash the same.

For Petitioners : Mr.Sam Jayaraj Houston

For Respondents : Mr.P.Anandhakumar
Government Advocate – R1 & R2

Mr.K.V.Ananthakrishnan – R3 & R4



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ORDER

Since no adverse Order has been passed against the third and fourth respondents, notice to them is dispensed with. 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 quash the impugned proceedings of the first respondent in Appeal No.4187/A1/2022 dated 03.02.2023 cancelling the settlement deed executed in favour of the second petitioner and the sale deed executed in favour of the first petitioner on the basis of the complaint given by the respondents 3 to 5.

3. The case of the petitioners is that the larger extent of the subject property was originally in possession and enjoyment of mother of the second petitioner, viz., Sakina Bi. Taking advantage of her blindness, the third respondent created fraudulent document and obtained sale deed from to an extent of 1300 sq.ft. and also obtained patta in his favour and the fourth respondent was never in possession of the property. Originally the fourth respondent filed a suit in O.S.No.628 of 1999 on the file of the Additional



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District Munsif Court, Vellore for permanent injunction and the said suit has been dismissed and an appeal filed against the same in A.S.No.109 of 2011 has also been dismissed, as against the same, the Second Appeal in S.A.No.737 of 2015 is pending before this Court. During the pendency of the suit, the said Sakina Bi settled the property in favour of the second petitioner and the second petitioner in turn sold the property to the first petitioner. While so, based on the complaint given by fourth respondent, the first respondent cancelled the settlement deed executed in favour of the second petitioner and the sale deed executed in favour of the petitioner. The first respondent confirmed the Order of the second respondent in the appeal. Challenging the same, the present Writ Petition has been filed.

4. Counter has been filed by the first respondent. According to first respondent, as per T.S.No.525/69 the actual extent belonged to the mother of the second petitioner is only 603 sq.ft. But the mother of the second petitioner executed a settlement deed in favour of the second respondent for additional extent and the second petitioner also executed a sale deed in favour of the first petitioner for the said extent. According to them, the extent of land settled by the mother of the second petitioner belonged to the third and fourth respondents. Hence, the impugned Order has been passed and the same cannot



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fourth respondents have been settled fraudulently in order to defeat their rights. Hence, according to them, the registering authorities rightly found that the title vested with the third and fourth respondents and impugned Order of the first respondent does not require any interference.

8. I have perused entire materials. Complaint has been given by the third and fourth respondents claiming to be owner of the property in Survey No.525/70 to an extent of 1305 sq.ft. and smililarly another extent of 1300 sq.ft. in survey No.525/71. Whereas, the writ petitioner is in possession of the property in Survey No.525/69 and had dealt with excess extent of property belonging to the respondents 3 and 4. According to them, it is a clear case of fraud. Based on the same, the document has ben cancelled. The very counter filed by the respondents 3 and 4 indicate that they set up their tile only in respect of survey No.529/71. Whereas the property dealt by the writ petitioner relate to survey No.525/69. Therefore, when there is difference in survey number, whether the petitioner actually owned certain extent of land in survey No.525/70 and 71 as per the patta issued by the Tahsildar is a matter of evidence. It has to be established in a Civil Court. Without there being any evidence, merely on the basis of the complaint, the document cannot be cancelled as a fraudulent document. The fact of fraud and forgery has to be



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pleaded and proved in the manner known to law. Therefore, this Court is of the view that the registering authorities cannot assume the role of a Civil Court and cancel the document. This aspect has been elaborately dealt by this Court in **W.P.No.29706 of 2022 [G.Rajasulochana Vs. Inspector General of Registration and others]**. Hence, the impugned Order cannot be sustained in the eye of law.

9. Accordingly, this Writ Petition is allowed and the impugned proceedings of the first respondent dated 03.02.2023 is quashed. No costs. Consequently, connected miscellaneous petition is closed

15.07.2024

vrc

Index :Yes/No

Internet :Yes/No

Neutral Citation : Yes/No

To,

1. The Deputy Registrar [Registration],
Vellore.
2. The District Registrar [Registration],
Vellore.



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N. SATHISH KUMAR, J.

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