



W.P. No.11221 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.11221 of 2024 and
W.M.P. No.12314 of 2024

R.Rose Mary

... Petitioner

Vs

- 1.The Deputy Inspector General of Registration
50, Sankaranaidu Street
Thirupathipuliyur
Cuddalore - 607 002
- 2.The District Registrar (Admin)
District Registrar Office
Kallakurichi, Kallakurichi District
- 3.The Sub Registrar
Sankarapuram SRO
Kallakurichi District
- 4.Abdul Suban Sahib
- 5.Sellan
- 6.Vedathal
- 7.Vijaya



W.P. No.11221 of 2024

8.Mariya Pillai

9.Shanmugam

10.Valarmathi

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders dated 12.02.2024 made in Na.Ka. No.524/Oo/2024 passed by the 1st respondent confirming the order impugned dated 01.09.2022 made in Na. Ka. No.1901/Aa1/2022 passed by the 2nd respondent, quash the same and consequently direct the 3rd respondent to delete the entries made after the impugned order dated 01.09.2022 passed by the 2nd respondent and restore the records as it stood.

For Petitioner : Ms.M.Adhishree

For Respondents : Mr.P.Anandhakumar
Govt. Advocate for R1 to R3
No appearance for R5 to R8, R10
Service Awaited for R4 and R9

ORDER

Challenge has been made to the cancellation of the sale deed registered in favour of petitioner's husband. The sale deed has been cancelled mainly on the



W.P. No.11221 of 2024

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basis of the complaint given by the private respondents. The orders have been passed mainly on the ground that the property already sold in the year 1996, is again sold. Therefore, invoking the powers under Section 68(2) of the Registration Act, the Registrar conducted an enquiry on the basis of the Circular No.41530/U1/2017 dated 25.03.2022. However, there is no material whatsoever available on record to show that notice has been served on the petitioner.

2. Though notice was served on the private respondents, they have not chosen to appear either in person or through a counsel.

3. The third respondent has filed a counter affidavit stating that the property already sold to the private respondents is sold again therefore invoking the power under Section 68(2) the sale deed was cancelled.

4. Heard both sides and perused the materials available on record.

5. It is the contention of the learned counsel appearing for the petitioner that the petitioner's husband died on 22.06.2018 but the orders have been



W.P. No.11221 of 2024

WEB COPY

passed in the year 2022 cancelling the sale deed stood in the name of petitioner's husband.

6. Be that as it may, the power of the Registrar under Section 68(2) is only a superintending power. Any circular can be issued only with regard to superintendence control in the office. In this regard, this court has elaborately dealt with the issue regarding the powers of the Registrar in ***G.Rajasulochana Vs The Inspector General of Registration in WP.No.29706 of 2024 dated 16.04.2024***. Therefore, merely on the basis of the allegation that the same property was sold subsequently, the document cannot be cancelled as a matter of right. Such fact has to be established in the manner known to law. Whether the same property with same boundaries and extent are sold to be seen on evidence not by mere allegation. The right of the parties will be based on the priority right already created as per Section 48 of the Transfer of Property Act. Such being the position, without there being any semblance of evidence in this regard, merely on the basis of allegations of some one, the registered document cannot be cancelled as a matter of right. In such view of the matter, the order passed by the respondents cannot be sustained in the eye of law.



W.P. No.11221 of 2024

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7. Accordingly, this writ petition is allowed. The impugned orders of the respondents 1 and 2 dated 12.02.2024 and 01.09.2022 are quashed and there shall be a direction to the 3rd respondent to delete the entries made after the impugned order dated 01.09.2022 passed by the 2nd respondent and restore the records as it stood originally. No costs. Consequently, the connected writ miscellaneous petition is closed.

13.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The Deputy Inspector General of Registration
50, Sankaranaidu Street
Thirupathipuliyur, Cuddalore - 607 002

2.The District Registrar (Admin)
District Registrar Office
Kallakurichi, Kallakurichi District

3.The Sub Registrar
Sankarapuram SRO
Kallakurichi District

4.The Government Pleader
High Court, Madras



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W.P. No.11221 of 2024

N.SATHISH KUMAR, J.

Asr

W.P.No.11221 of 2024 and
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13.06.2024