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W.P.No.12969 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.12969 of 2024

Teeta Krishnamurthy

.. Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
R.A.Puram, Chennai – 600 028.

2.The District Registrar (Administration),
Chennai South,
Integrated Office Complex,
Saidapet, Chennai – 600 015.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2nd respondent to pass orders *vide* letters No.16534/R1/C4/2012 dated 23/07/2012 and No.19867/U2/2016 dated 29/04/2016 as directed by the 1st respondent and further direct the 2nd respondent to take steps to cancel the erroneous documents bearing Nos.3046 of 2009, 909 of 2009, 979 of 2011 dated 20/08/2009, 24/12/2009 and 18/02/2011 at SRO Pallavaram.

For Petitioner : Mr.V.Ramesh
for R.Ashwanth
For Respondents : Mr. P.Anandhakumar
Government Advocate



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ORDER

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This writ petition has been filed for a direction to the 2nd respondent to take action for cancellation of the documents in respect of the petitioner's properties.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. It is the case of the petitioner that her properties were dealt with by third parties claiming ownership, due to which, sale deeds came into existence in the year 2009 and 2011. Hence, according to the petitioner, the action of the third parties in registering the document of somebody amounts to forgery and it attracts the penal provision under Sections 82 and 83 of the Registration Act, 1908 (in short “the Act”). Despite the application given by the petitioner for cancellation of documents, action has not been taken. Hence, the present writ petition.

4. Mr.Ramesh, learned counsel representing Mr.R.Ashwanth, learned counsel on record for the petitioner, vehemently contended that as



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per the Circular in Letter No.33760/U1/2022 dated 27.09.2022, if any offence under Section 82 of the Act is proved, the Registrar has the power to initiate criminal proceedings and the document also can be cancelled. Hence, according to him, the said third parties have impersonated themselves as the owner of the properties and executed documents related to the properties of somebody and such documents also can be cancelled under Section 77-A of the Act.

5. This Court is of the view that the documents relate to the year 2009 and 2011 and some third parties have dealt with the properties as if the properties belong to them. Further, the very recitals indicate that they claim ownership of the properties and it is not by impersonating somebody or by creating false documents, such documents came into existence.

6. In such view of the matter, such act will not fall under the category of “forgery” as held by the Apex Court in **Mohamed Ibrahim Vs State of Bihar [(2009) 8 SCC 751]** that mere execution of a sale deed by claiming that the property being sold was executant's property did not amount to commission of offences under Section 467 and 471 of the Act even if title to the property did not vest in the executant. When forgery is



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not attracted, the same will not enable the Registering Authority to cancel the document. That apart, Section 82 of the Act deals with the penalty, as per which, only if false document or statements are said to have been given before the Registering Authority, the question of penalty will arise.

7. Such being the case, at this stage, the authorities have no right to cancel the documents in view of Section 77-A of the Act. It is for the petitioner to work out her remedy before the Civil Court to restore her property.

With the above observation, this writ petition stands dismissed.

No costs.

05.06.2024

gya

Index : Yes/No

Neutral Citation : Yes/No



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To
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N.SATHISH KUMAR, J.

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