



WP.No.14788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.14788 of 2024

K.Banumathy

.. Petitioner

Versus

1.The Inspector General of Registration
Thiruvallur, Thiruvallur District

2.The District Registrar
Thiruvallur District

4.The Sub Registrar
Sub Register Officer
Avadi

4.Selvamani
5.Vanitha

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring declare that the cancellation of the forgery release deed registered by the 3rd Respondent dated 30.11.2009 registered as Document No 4065 of 2010 as null and void and without jurisdiction.

For Petitioner : M/s.S.Nathiya

For Respondents : Mr.Yogesh Kannadasan for R1 to R3
Special Government Pleader
Mr.A.Palaniappan for R4 & R5



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ORDER

This writ petition has been filed seeking for a declaration to declare that the release deed in Doc.No.4065 of 2021 registered by the 3rd respondent dated 30.11.2009 as forgery.

2. It is the contention of the learned counsel for the petitioner that the the petitioner purchased the property by way of sale deed in the year 2002, however, the private respondents has executed the release deed in the year 2010 and the complaint is also pending with the police. Therefore, it amounts to forgery. Hence, seeks to cancel the document.

3. Heard both sides and perused the materials placed on record. By consent of both parties, this writ petition is taken up for final disposal.

4. At the outset, this Court is of the view that unless the document in question comes within the category of a false document as defined in Section 464 of the IPC, there cannot be a case of forgery, and the same cannot be cancelled. Merely, because somebody claims to be the owner and dealt with the property, Section 77-A of the Registration Act cannot be invoked. It is relevant to note that the Hon'ble Supreme Court in the case of *Mohd. Ibrahim v. State*

of Bihar, reported in (2009) 8 SCC 751 has held as under:

<https://www.mhc.tn.gov.in/judis>



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“There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of “false documents”, it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.”

5. Such view of the matter, I do not find any merits in the case and this writ petition stands dismissed. No costs.

26.06.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

N. SATHISH KUMAR, J.



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To

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