IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-02-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

WA No.1474 of 2022
And
CMP No.9671 of 2022

1.The State of Tamil Nadu Represented by its
Secretary, Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai.

3.The Sub Registrar,
Office of the Sub Registrar,
Vallam Village and Post,
Gingee Taluk. .. Appellants

-vs-

1.Tmt.S.Rajalakshmi

2.Gnanambikai

3.Sagunthala .. Respondents

Writ Appeal is preferred under Clause 15 of Letters Patent against the order passed by this Court in WP No.33770 of 2007dated 11.08.2021.

For Appellants	:	Mr.Yogesh Kannadasan, Special Government Pleader.
For Respondent-1	:	Mr.P.Dinesh Kumar
For Respondent-2	:	No Appearance
For Respondent-3	:	Died. Steps due.

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED BY S.M.SUBRAMANIAM, J.]

The Intra Court Appeal on hand has been instituted challenging the order dated 11.08.2021 in WP No.33770 of 2007.

2. The State preferred the writ appeal mainly on the ground that the writ claiming damages instituted by the first respondent was allowed on the ground that the Sub Registrar, Vallam has committed administrative lapse in not making necessary entries in the encumbrance records. The previous sale transactions took place were not properly entered in the Register, which resulted purchasing of property by the writ petitioner based on certain informations.

3. Though the Sale Deed of the year 1998 was registered, it was not properly verified at the time of issuance of Encumbrance Certificate.

4. At the outset, entries already made were not reflected in the Encumbrance Certificate, which was issued to the writ petitioner. Findings of the Writ Court would reveal that the action of the Sub Registrar in not properly verifying the encumbrance records resulted in purchase of property by the writ petitioner. Therefore, the writ petitioner is entitled for compensation of Rs.70,000/- with interest at the rate of 6% per annum from

the date of writ petition dated 23.10.2007.

5. Certain administrative errors/lapses cannot be a ground to claim compensation by instituting writ proceedings under Article 226 of the Constitution of India. In the event of lapse, dereliction of duty or negligence on the part of the public servants, suitable disciplinary actions may be taken by conducting departmental enquiry. However, the Writ Court cannot entertain the writ for compensation and grant the relief of compensation by quantifying the amount.

6. In the present case, the writ petition was filed seeking compensation to the tune of Rs.70,000/- to the petitioner. However, the learned single Judge has granted the said amount of Rs.70,000/- along with interest at the rate of 6% per annum.

7. Section 86 of the Registration Act, extends protection to the Registering Officer. Accordingly, no Registering Officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity. Therefore, errors, if occurred unintentionally

or inadvertently, the said actions cannot be a ground to seek compensation before the Writ Court. For grant of compensation, documents and evidences are to be considered to establish the intentional act of public servants. In the absence of any such documents or evidences and a full-fledged enquiry, compensation cannot be granted in writ proceedings.

8. The learned counsel for the first respondent would submit that Section 86 of the Registration Act, would provide no protection to the Sub Registrar in view of the fact that the error occurred is admitted. Since the facts are not disputed, the petitioner has chosen to file the writ for grant of damages.

9. In the present case, no such enquiry has been conducted. Thus we find that the order impugned is infirm and beyond the scope of the power of judicial review conferred under Article 226 of the Constitution of India. However, the Inspector General of Registration is directed to conduct an enquiry and find out if there is any lapse, negligence or dereliction of duty on the part of the Sub Registrar concerned and if any such misconduct is identified, initiate suitable actions under the discipline and appeal rules

and by following the procedures.

10. With the above directions, the order impugned dated 11.08.2021 passed in WP No.33770 of 2007 is set aside. Consequently, the present writ appeal stands allowed. However, there shall be no order as to costs. The connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

29-02-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

1.The Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai.

3.The Sub Registrar,
Office of the Sub Registrar,
Vallam Village and Post,
Gingee Taluk.

S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

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