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WP.No.12472 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.12472 of 2024
and W.M.P.Nos.13630 & 13632 of 2024

R.Narayanan

.. Petitioner

Versus

1.The District Registrar (Administration)
Tindivanam, Villupuram – 606 202

2.The Sub Registrar Vanar
Mailam Road, Vanur Taluk
Villupuram – 606 202

3. The Inspector General of Registration
O/o. The Inspector General of Registration
100, Santhome High Road
Chennai – 600 028

4.L.N.Ganesan

5.Pattu

6.Marjaka Parveen

7.Sharbun Nisha

8.Shakila

9.Mohammed Farook

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the records of
the impugned order dated 05.06.2023 made in Na.Ka.No. 5771/Aa3/ 2022



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passed by the 1st respondent and quash the same consequently direct the 1st respondent to remove all the consequential entries made in the encumbrance certificate relating to Survey No. 233/2A in Chinna Kottankuppam Village, Thindivanam.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.B.Vijay for R1 to R3
Additional Government Pleader

Mr.T.Saikrishnan for R4

Mr.S.P.Vijayaraghavan for R5

No appearance for R6 to R9

ORDER

Challenge has been made to the impugned order cancelling the document on the basis of a complaint given by the fourth respondent that all the documents are fraudulent documents.

2. The learned counsel for the petitioner brought to the notice of this Court that same documents were sought to be cancelled earlier by the fourth respondent and the order has been passed by the District Registrar on 08.11.2022 cancelling the sale deeds despite the fact that the suit in O.S.No.124 of 2016 was pending. Those orders were passed invoking powers under Section 68(2) of the Registration Act. When the appeal was filed challenging the said



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order, the appellate authority/Deputy Inspector General of Registration, Cuddalore, by order dated 08.05.2023 had set aside the order and directed the parties to work out their remedy in the civil Court.

3. Thereafter, it appears that once again a complaint has been given under Section 77-A of the Registration Act. It is to be noted that earlier order has been passed invoking Circular issued under Section 68(2) of the Registration Act. This Court has repeatedly held that Section 68(2) of the Registration Act deals with superintendence power and control over the Sub Registrar concerned. Be that as it may, based on the second complaint, the impugned order has been passed cancelling the document by order dated 05.06.2023, that too within a month. The Deputy Inspector General of Registration has passed an order on 08.05.2023 directing the parties to work out their remedy before the Civil Court, even within a month, the District Registrar entertained the second complaint and passed an order cancelling those documents by order dated 05.06.2023.

4. The counter has been filed by the fourth respondent to the effect that since Section 77-A of the Registration Act is pending before the larger bench, therefore, the writ petition is not maintainable and O.S.No.124 of 2016 is also filed, it is the contention that sale deed which is subject matter of the impugned



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order and also pending suit, is fraudulently executed. Hence, opposed the writ petition.

5. Despite the name being printed in the cause-list, none appeared for the respondents 6 to 9. Heard the learned counsel for the petitioner, respondents 4 and 5 and learned Additional Government Pleader for the respondents 1 to 3 and perused the materials placed on record. By consent, this writ petition is taken up for final disposal.

6. The very order itself indicate that it is only cryptic and passed without any discussion or reasons. It is really surprising to note that when the Deputy Inspector General of Registration has passed an order on 08.05.2023 directing the parties to work out their remedy in the Civil Court, the District Registrar entertained second complaint within a month, i.e., 05.06.2023 and passed an order cancelling the document under Section 77-A. These facts, in fact, exhibit misuse of power by the authorities at their whims and fancies for extraneous consideration. Even to invoke powers under Section 77-A, it must be established that these documents are result of forgery. There are a lot of difference between forgery and fraud. Only a person commits impersonation or creates a false document as defined under Section 464 of IPC will come within the ambit of forgery. Whereas, one simply executing a document based on



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certain rights, though that may not be a better title, such transaction never be called as forged transaction. Therefore, if one person has alleged that those document is a result of fraud, the same has to be established in the manner known to law, since the fraud requires pleading and proof before the Civil Court. This Court has elaborately dealt this issue in the case of *G. Rajasulochana v Inspector General made in W.P 29706 of 2024* dated 16.04.2024.

7. Such view of the matter, the impugned order stands quashed, let the parties work out their remedy in the Civil Court. The Inspector General of Registration is directed to take disciplinary proceedings against the District Registrar who entertained such complaint.

8. The order passed by the concerned District Registrar is clear non application and in fact has deliberately ignored the order of the superior and entertained the complaint that too within a month of the order of the Deputy Inspector General of Registration.

9. With the above direction, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.



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Index

:Yes/No

Internet

:Yes/No

Neutral Citation

: Yes/No

To,

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



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