



WEB COPY



WP.No.13382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.13382 of 2024
and W.M.P.No.14531 of 2024

Vijaya Anirudhran

.. Petitioner

Versus

1. The Inspector General of Registration
Santhome High Road
Chennai – 600 028

2.The District Registrar
Salem West Registration District
Salem District

3.The Sub Registrar
Edappady Sub Registrar Office
Edappady, Salem District

4.Aswin Vinoth

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No.10199/E4/E5/20222 dated 01.08.2023 and quash the same.

For Petitioner : Mr.R.Marudhachalmurthy

For Respondents : Mr.P.Anandhakumar for R1 to R3
Government Advocate
Mrs.Radhika Bhoopathi for R4



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ORDER

By consent of both parties, this writ petition is taken up for final disposal.

2. Challenge has been to the impugned order cancelling the various registered documents on the basis of a complaint given by the fourth respondent.

3. The crux of the case of the fourth respondent before the District Registrar to the effect that the property was originally allotted to the fourth respondent's father in partition. He has executed a power of attorney in favour of Annadurai and Kandhappan on 08.03.1996. Further, the fourth respondent's father died on 11.01.2000. After the death of the his father, based on the said POA, the property has been sold to one Ramaswamy. Thereafter, the property purchased by Rudra Balaji in the year 2008 and the writ petitioner has purchased in the year 2012. Based on the complaint, the District Registrar has gone into the issue and cancelled the document.

4. It is the contention of the writ petitioner that the suit is already filed by the fourth respondent in O.S.No.22 of 2021 on the file of the Sub-Court,

Sankari for declaration and recovery of possession. Pendency of the suit, an



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application has been filed before the District Registrar and the document has been cancelled.

5. Heard both sides and perused the materials placed on record.

6. Though the elaborate counter has been filed by the respondent to substantiate the order passed by the District Registrar, this Court is of the view that the powers exercised by the District Registrar is without any jurisdiction, they have no power whatsoever to go into the civil dispute and cancel the document except the document which registered contrary to Sections 22-A and 22-B of the Registration Act. Even while bringing the amendment of Sections 22-A and 22-B, it was the stand of the Government in the notes and clauses that there is no provision under the Registration Act to cancel the document. However, based on the circular under Section 68(2), the powers has been assumed by the authorities. Section 68 of the Registration Act deals with the superintendence power and control over the sub-registrar concerned. Therefore, in the absence of any statutory backing, merely on the basis of circular, the authorities cannot assume the role of the Civil Court and go into the documents to cancel the document. The transaction between the parties is controlled by the substantive law namely the Transfer of Property Act, 1882. The Registration



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Act deals with registration about the nature of transaction in the particular property not more than that.

7. This Court has elaborately dealt the powers of the registering authorities to cancel the documents in the case of the *in the case of G. Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024.*

8. It is also to be noted that on a mere allegation that sale has been taken place after the death of fourth respondent's father, the District Registrar relied solely upon a death certificate produced by the fourth respondent and cancelled the documents. Whether the death certificate produced is genuine or not is a matter of evidence. Why it prompted this Court to observe is that in a Writ Petition made in W.P.No.33564 of 2023, order dated 27.06.2024, the District Registrar based on a death certificate produced by the complainant, the document has been cancelled. This Court summoned the original records from the original authority namely the Zonal Health Officer, Zone-IV, Greater Chennai Corporation, Chennai – 600 001 and found that the so-called death certificate produced before the District Registrar is manipulated by the use of the computer and without verifying the veracity of the death certificate, the



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registering authorities has cancelled the document. Therefore, whether the death certificate relied upon by the fourth respondent is genuine or not is to be seen only in Civil Court, further, whether all the allegations are to be established with proper evidence before Court of Law.

9. It is also not the case of the fourth respondent that the document has been a result of forgery to attract Section 77-A also. Such view of the matter, the impugned order stands quashed. Let the parties work out their remedy in the pending suit.

10. Accordingly, this writ petition stands allowed of. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2024

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Index : Yes/No
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N. SATHISH KUMAR, J.



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To

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