



WP.No.14344 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.14344 of 2024
and W.M.P.No.15573 of 2024

Padmvathy Srinivasa Nagar
Public Welfare Sangam
(Regn No.239/2003)
No.4, Kamarajar Street
Padmavathy Srinivasa Nagar
Ambattur, Chennai – 600 053
Rep by its President
N.Loganathan

.. Petitioner

Versus

1.The District Registrar
Office of the District Registrar
Kuralagam, North Chennai
Chennai – 600 108

2.The Sub Registrar
Ambattur Sub-Registrar Office
Ambattur, Chennai – 600 053

3.The District Collector
Tirvallur District, Tiruvallur

4.The Tahsildar
Avadi Taluk Office
Avadi, Chennai – 600 054

5.A.P.Nagesh

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent herein to consider the application No.10499 dated 07/09/2023 of the petitioner submitted under Section 77- A of the Registration Act in respect of landed Property in Survey No.440 /5 (12 cents) in Tirumullaivoyal Village, Avadi Taluk, Tiruvallur District and conduct enquiry in to the same in the light of Judgement dated 12/02/2024 in W.A.No.3573 /2023 by this Court and dispose of the same.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Mr.Yogesh Kannadasan for R1 to R4
Special Government Pleader

ORDER

This writ petition has been filed seeking for a direction to the respondents to cancel the document.

2. It is the contention of the learned counsel for the petitioner that the private respondents has executed a document in respect of the land which is earmarked as OSR. 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 in the admission stage itself.

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:

“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



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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. Consequently, connected miscellaneous petition is closed.

12.06.2024

dhk
Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No



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N. SATHISH KUMAR, J.

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