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W.P. No.15246 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.15246 of 2020

M.A.Mahalingam

. . Petitioner

Vs

1.The Registrar General of Registration
Santhome
Chennai

2.The Administrative Registrar
Kancheepuram District
Kancheepuram

3.The Joint Sub Registrar
Thiruvallur

4.M.S.Anandan alic Venkatraman

5.M.A.Subramaniam

6.M.A.Sampath Kumar

. . Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records on the file of the 2nd respondent in Na. Ka. No.1256/R2/6/2020 dated nil.06.2020 and



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quash the same as it is unsustainable in law consequently direct the 3rd respondent not to enter any instruments on his file under Indian Registration Act for the property situated at Moonambedu Village, Thiruvallur Taluk & District in Survey No.27/1 and Survey No.28.

For Petitioner : Mr.K.P.Chandrasekaran

For Respondents : Mr.P.Anandakumar,
Govt. Advocate for R1 to R3
Mr.L.Chandrakumar for R5 & R6
No Appearance for R4

ORDER

This writ petition has been filed challenging the order of the 2nd respondent cancelling the registered documents of the year 1978, 1985 and 1984. An application has been given by the contesting respondents before the Registrar that the properties have been dealt by one legal heir of Arumuga Chettiar.

2. According to the petitioner before the Registrar the properties belonging to their family. Therefore he sought cancellation of various documents. Based on the said complaints, the Registrar has assumed the jurisdiction of Civil Court as a Civil Judge and recorded a statement of some



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persons and gone into the issue of the oral partition among the parties in the family and held that those partitions are not valid and finally annulled all the documents. No counter affidavit has been filed.

3. Heard Mr.K.P.Chandrasekaran, learned counsel appearing for the petitioner, Mr.P.Anandakumar, learned Government Advocate, appearing for the respondents 1 to 3 and Mr.L.Chandrakumar, learned counsel appearing for the respondents 5 and 6.

4. When this court posed a question to the learned Government Advocate appearing for the Registration Department under which provision of law, the Registrar has assumed the power of Civil Court to annul the document, the answer is not forthcoming. On perusal of the entire Registration Act, the scheme of the Act is only to prevent a fraudulent registration. But before an amendment to Section 22-A and 22-B of the Act, there was no power whatsoever granted to the authorities under the Act to annul the document. Section 22-A deals with the property of the religious endowments and other aspects particularly, when the conversion of the agricultural land into house sites. Section 22-B deals with forgery of documents and attachment by the competent authorities of the courts. Only in respect of documents fall within the category of Section 22-A and 22-B,



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the powers have been given to the Registrar to cancel a document under Section 77-A, which was amended on 16.08.2022. Before that, the Registrar has no power whatsoever to enquire into the cancellation of the document.

5. In the case on hand, the Registrar has received an objection in respect of the documents registered in the years 1978, 1985 and 1984 and annulled the documents in the year 2018 without any authority. This court is of the view that such an act is nothing but without any jurisdiction. Therefore, the cancellation order passed by the respondent stands set aside. Even any document is registered and a person acquiesced of such registration had not questioned the same within a period of three years, his/her right will be automatically get extinguished as per law. Further, even the substantive law provides that an ostensible owner also can deal with the property. When such being the position, when the document has been registered several decades ago now cannot be annulled on the mere allegation of alleged fraudulent act or alleging that the person executed the document has no title to the property. Such things can never be gone into by the Registering authority.

6. For the foregoing reasons, this writ petition is allowed. The order of the 2nd respondent in Na. Ka. No.1256/R2/6/2020 dated nil.06.2020 is set aside.



No costs.

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Index : Yes / No
Speaking/non speaking order
Neutral Citation : Yes/No
Asr

To

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Santhome
Chennai
- 2.The Administrative Registrar
Kancheepuram District
Kancheepuram
- 3.The Joint Sub Registrar
Thiruvallur
- 4.The Government Pleader
High Court, Madras

N. SATHISH KUMAR, J.

Asr



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