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W.P.No.19611 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19611 of 2024

Haritha @ KR.Vishnupriya

...

Petitioner

versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome,
Chennai - 600 004.

2.The Deputy Inspector General of Registration,
No.50, Sankara Naidu Street,
Thiruppathiripuliyur,
Cuddalore - 607 002.

3.The District Registrar,
Chidambaram,
Cuddalore District.

4.R.Babu @ Punniyamoorthy

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to complete the enquiry and pass final order under amended Section 77B of the Registration Act, 1908 for the cancellation of the fraudulent Sale Deed *vide* Doc.No.3261/1993 dated 16.09.1993.



For Petitioner : M/s.Haritha
Party-in-Person

WEB COPY For Respondent Nos.1 to 3 : Mr.M.Shajahan
Special Government Pleader

ORDER

By consent of both sides, this Writ Petition is disposed of at the stage of admission itself.

2. This Writ Petition is filed to direct the first respondent to complete the enquiry and pass final order under amended Section 77-B of the Registration Act, 1908 for the cancellation of the fraudulent Sale Deed *vide* Doc.No.3261/1993 dated 16.09.1993.

3. It is the grievance of the petitioner that the property belongs to her ancestral property. However, the fourth respondent fraudulently created a document in the year 1993 and she is in possession of the property. Therefore, the petitioner has given a representation before the District Registrar and now the appeal is also pending with the first respondent. Hence, she seeks a direction.



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4. It is relevant to note that an earlier writ petition in W.P.No.18748 of 2019 was filed by the mother of the writ petitioner for cancellation of the document and the same was dismissed, with liberty to work out her remedy before the Civil Court. Challenging the order of dismissal, an appeal has been filed before the First Bench of this Court in W.A.No.145 of 2020. This Court, by judgment dated 14.09.2020 has held as follows:-

“10. The question of seeking cancellation of any document can only be gone into through a Civil Suit as observed by the learned Single Judge and we, therefore, affirm the aforesaid conclusion drawn by the learned Single Judge, with liberty to the appellant to seek her remedy in accordance with law either before the Sub Registrar, or the Civil Court or even before the Revenue Authorities who may be entitled to conduct an enquiry under the relevant law for the time being in force.”

5. In fact, the Division Bench has held that the cancellation of any document can only be gone into through a civil suit. However, the liberty



has been granted to the mother of the petitioner to approach the Sub Registrar, or the Civil Court or even before the revenue authorities to conduct an enquiry under the relevant law for the time being in force.

6. Such being the position, the entire affidavit indicates that the petitioner's case does not within the act of forgery. The petitioner allege any fraud, the fraud has to be proved in a manner known to law. Even if a person has no title believing to be the true owner executes any such document, the act will not amount to forgery. This aspect has been elaborately dealt by the Hon'ble Supreme Court in ***Mohd. Ibrahim v. State of Bihar*** reported in ***(2009) 8 SCC 751*** and has that held 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. In the present case, the private respondent has registered the document based on the sale deed executed in his favour. Further the registering authorities have no power to conduct roving enquiry with regard to the registered document. It is open for the petitioner to establish her right in an appropriate manner in the Civil Court. Hence, I do not find any merits in this Writ Petition.



7. After dictation completed, the learned party-in-person submitted that she is willing to withdraw the writ petition. However, this Court has already dictated the order, withdrawal is not permitted.

8. Accordingly, this Writ Petition is dismissed. No costs.

19.07.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Note : Issue Order Copy on 26.07.2024

sri

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome,
Chennai - 600 004.

2.The Deputy Inspector General of Registration,
No.50, Sankara Naidu Street,
Thiruppathiripuliyur,
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3.The District Registrar,
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N.SATHISH KUMAR, J.

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