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W.P.No.19807 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19807 of 2024

Vinu Priyanga.R

...

Petitioner

vs

The Inspector General of Registration
No.100, Santhome High Road
Chennai 028, Tamil Nadu, India

2.Deputy Inspector General of Registration
Integrated Building for offices of the Commercial Taxes
and Registration Department, Fanepet, Nandanam,
Chennai -35.

3.The District Registrar
Chennai Central, No.182, Bharati Salai
(Pycrofts Road), Royapettah, Chennai – 14.

4.The Sub Registrar
Perambur – Purasaiwalkkam
No.6/13, Adhi Venu Heights
Porteous Road, Ayanavaram
Chennai, Tamil Nadu – 23.

5.J.M.Ahmed Sirjauddin

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus to direct the 4th respondent to consider
the representation dated 04.06.2024.



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W.P.No.19807 of 2021



For Petitioner : Mr.R.Udayakumar
For Respondents : Mr.B.Vijay, AGP for R1 to R4
Mr.H.Mohammhed Farook for R5.

ORDER

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

2. The grievance of the petitioner is that the 5th respondent is the power holder sold the flats S3 and S4 to the petitioner and her sister. Though, the builder had obtained permission to construct 11 flats, the builder had constructed 12 flats and there was a violation of the building plan. Therefore seeks the Sub Registrar/4th respondent to take action.

3. On perusal of records, the writ petition is misconception of facts and the writ petition itself is not maintainable. If there is any building violation there cannot be a direction to the Sub Registrar to go into the alleged transaction. Further, the District Registrar and the Sub Registrar have no power to go into the fraudulent transactions.

4. It is relevant to point out that in **W.P.No.29706 of 2022 [G.Rajasulochana Vs. Inspector General of Registration and others]**, I



had an occasion to deal with the power of Registrar in cancelling documents. Order in the writ petition is as follows:

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“... 3. It is relevant to note that the object of the law of registration is to provide public notice of the transaction embodied therein. The execution of documents and its validity, the right created or extinguished is governed by the substantive law namely the Transfer of Property Act, 1882. The provisions contained in the Registration Act, 1908 relates to the factum of registration alone. The Hon'ble Supreme Court in the case of State of Rajasthan v. Basant Nahata, (2005) 12 SCC 77 has held as follows:

“The Act only strikes at the documents and not at the transactions. The whole aim of the Act is to govern documents and not the transactions embodied therein. Thereby only the notice of the public is drawn.”

4. The practice has been developed in the recent past in Tamil Nadu to entertain the applications given by the so-called affected parties to cancel all the documents under the pretext of either forgery or fraudulent transactions. The Inspector General of Registration, Government of Tamil Nadu has brought out Circular No.67 dated 03.11.2021 to deal with the fraudulent registrations through impersonation. The said circular is mainly based on the judgment of the Full Bench of the Andhra Pradesh High Court in the case of YanalaMalleshwari v. AnanthulaSayamma, reported in AIR 2007 AP 57. However, the three bench of Hon'ble Apex Court in the case of Satya Pal Anand v. State of M.P., reported in (2016) 10 SCC 767 has held that the power of the Registrar, under the Registration Act, is purely administrative and not quasi-judicial. The same is extracted hereunder:

“34. The role of the Sub-Registrar (Registration) stands discharged, once the document is registered (see Raja Mohammad Amir Ahmad Khan [State of U.P. v. Raja Mohammad Amir Ahmad Khan, AIR 1961 SC 787]). Section 17 of the 1908 Act deals with documents which require compulsory registration. Extinguishment deed is one such document referred to in Section 17(1)(b). Section 18 of the



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same Act deals with documents, registration whereof is optional. Section 20 of the Act deals with documents containing interlineations, blanks, erasures or alterations. Section 21 provides for description of property and maps or plans and Section 22 deals with the description of houses and land by reference to government maps and surveys. There is no express provision in the 1908 Act which empowers the Registrar to recall such registration. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. **The power to cancel the registration is a substantive matter. In absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question. Similarly, the power of the Inspector General is limited to do superintendence of Registration Offices and make rules in that behalf. Even the Inspector General has no power to cancel the registration of any document which has already been registered.**

5. In the result, this writ petition is dismissed. No costs.

24.07.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

4/6



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N.SATHISH KUMAR, J.

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