THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

**W.A.No.2311 of 2024**
**and**
**C.M.P.No.16255 of 2024**

M/s.Anush Infrastructure Pvt. Ltd.,
2/1, Abu Garden,
Rajiv Gandhi Salai (OMR)
Navalur, Chennai – 600 103 ... Appellant

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The Sub-Registrar,
Sub-Registrar Office,
No.29, South Mada Street,
Thiruporur – 603 110.

3.S.Mohan Kumar

4.Dr.M.Arunvel Kumar ... Respondents

**Prayer**: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 20.06.2024 made in W.P.No.20831 of 2022 and allow this writ appeal.

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| For Appellant | : | Mr.P.Subba Reddy |
| For Respondents 1 and 2 | : | Mr.L.S.M.Hasan Fizal,<br>Additional Government Pleader |

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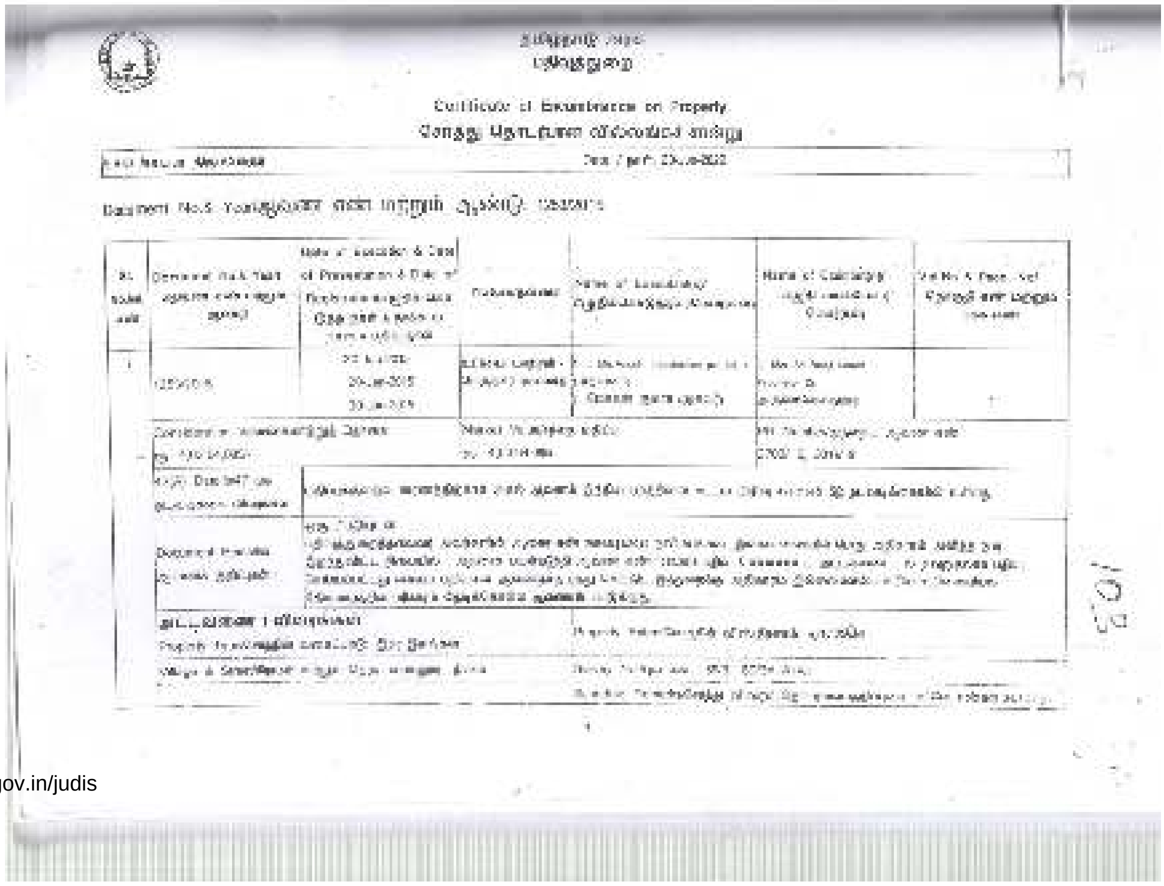
## JUDGMENT

*(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)*

Challenge in this writ appeal is to the common order of the learned Single Judge made in W.P.Nos.20436 and 20831 of 2022, allowing the two writ petitions filed by two different individuals, challenging the entry made by the orders of the Inspector General of Registration in the encumbrance certificate stating that the power of attorney of the year 2009 claiming under


Certificate of Encumbrance on Property

**3.** This endorsement came to be made pursuant to the order of the Inspector General of Registration dated 20.05.2020.

**The background facts are as follows:-**

**4.** The properties that were dealt with under the two sale deeds belonged to the appellant Company. The appellant Company claims that one of its Directors stealthily created a power of attorney on 20th August 2009 appointing one S.Mohan Kumar s/o. Sheshmal Jain as the power agent to deal with the properties. Exercising the power under the said power of attorney, the said Mohan Kumar had executed two sale deeds dated 20th January 2015 registered as Doc.No.1252/2015 and Doc No.1253/2015.

**5.** The appellant had already launched proceedings before a competent civil Court challenging the validity of the said sale deeds and it is stated that the suit is pending. Pending suit the appellant made a complaint to the Inspector General of Registration on 20.08.2018 claiming that there has been an undervaluation of the property, thereby causing revenue loss to the Government to the tune of Rs.3,92,92,000/-.

**6.** As it is the habit of the Registration Department no action was taken till the appellant moved this Court in W.P.No.1048 of 2019 and obtained an order directing the Inspector General of Registration to consider its representation. Thereafter, nearly after one year and four months from the date of the order of this Court, the Inspector General of Registration issued an order on 20.05.2020 concluding that the action has been taken against the District Revenue Officer, Chennai as well as the Sub-Registrar for registering the sale deed in which the property subject matter of conveyance was undervalued. He also came to a conclusion that the power of attorney document is a fraudulent instrument. Even though the Inspector General of Registration came to a conclusion that the Department has no power to cancel the documents which are registered and advised the parties to seek appropriate relief before the civil Court, the operative portion of the order was incorporated in the encumbrance. We do not find any specific direction by the Inspector General for incorporation of that order in the encumbrance.

**7.** The complaint was regarding undervaluation of the property. Proceedings will have to be initiated as per Section 47-A of the Indian Stamp

Act. 47-A authorizes the Registrar to refer the document to the Collector for his opinion on valuation, if he believes that there has been undervaluation and as against the determination made by the District Registrar and appeal is permitted to the Inspector General of Registration and further appeal is provided to this Court under the scheme of 47-A of the Indian Stamp Act. Sub-Section 6 of Section 47-A authorizes the Inspector General of Registration to take *suo motu* cognizance within a period of 5 years from the date of passing of the order under sub-section 2 or sub-section 3.

**8.** In the case on hand, no order has been passed either under subsection 2 or 3 of Section 47-A by the Authorities. Therefore, it was not open to the Inspector General of Registration to even launch proceedings under 47-A(6). Departmental action against the Sub-Registrar or District Revenue Officer for alleged failure cannot be interfered with since it is within the domain of the Authorities concerned.

**9.** But, to put a clog on right to property by making such uncalled for endorsements on the basis of the so called enquiry that was conducted behind the back of the purchasers under the sale deeds cannot be sustained by this Court and the learned Single Judge has rightly set aside those orders. It is seen from the records that the suit challenging the sale deeds is already pending. It will be open to the Department to alter the records subject to the decision in the suit.

**10.** We therefore see no merit in this appeal. The appeal therefore fails and it is accordingly **dismissed**. The direction of the learned Single Judge should be carried out within a period of four weeks from the date of receipt of a copy of the order. No costs. Consequently, the connected miscellaneous petition is closed.

**11.** We are unable to resist the temptation to observe that this is the another case which throws lots of light on the sad state of affairs that prevail in the Registration Department of this State. We know that we cannot correct them, but, still we will keep observing, so that wisdom dawns upon them some time in very far future at least.

**(R.S.M., J.)** **(R.S.V., J.)**

dsa 31.07.2024

Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To:-

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The Sub-Registrar,
Sub-Registrar Office,
No.29, South Mada Street,
Thiruporur – 603 110.

**R.SUBRAMANIAN, J.**
**and**
**R.SAKTHIVEL, J.**

dsa

**W.A.No.2311 of 2024**

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