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WP.No.20552 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.20552 of 2024

Gopalakrishnan

.. Petitioner

Versus

1.The Inspector General of Registration
No.100, Santhome High Road
Mullima Nagar, Mandavelipakkam
Raja Annamalaipuram, Chennai – 600 028

2.The District Sub Registrar
Thirupathur Post
Thirupathur Taluk and District – 635 601

3.The Circle Deputy Inspector
Tahsildar Office
Thirupathur Post
Thirupathur Taluk and District – 635 601

4.The Sub Registrar
Thirupathur Post
Thirupathur Taluk and District – 635 601

5.The Joint Sub Registrar No.2
Thirupathur Post
Thirupathur Taluk and District – 635 601

6.Govindasamy
7.Govindaraj
8.G.Venkatesan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India



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praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to cancel the document No.6742/2016 dated 21.07.2016 on the file of the 4th respondent in favour of the 8th Respondent by consider the petitioners representation dated 19.06.2024.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.Stalin Abhimanyu for R1 to R5
Additional Government Pleader

ORDER

This writ petition has been filed seeking for a direction to the respondents 1 to 5 to cancel the document No.6742/2016 dated 21.07.2016 on the file of the 4th respondent in favour of the 8th Respondent by considering the petitioner's representation dated 19.06.2024.

2. It is the contention of the learned counsel for the petitioner that the the petitioner purchased the property by way of sale deed in the year 2008, however, the private respondents has executed the a fraudulent sale deed deed in the year 2016. 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. Since no adverse order is passed against the private respondents, notice to them is dispensed with.

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 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



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writ petition stands dismissed. No costs.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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N. SATHISH KUMAR, J.



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