



WA.No.2345/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

WA.No.2345/2024 & CMP.Nos.16509 & 16513/2024

S.Abdul Suban Sahib

... Appellant / 4th
Respondent in WP.No.11221/2024

Vs.

1.R.Rose Mary

... 1st Respondent /
Writ Petitioner

2.The Deputy Inspector General of Registration
50, Sankara Naidu Street
Thirupathiripuliyur
Cuddalore 607 002.

3.The District Registrar [Admin]
District Registrar Office
Kallakurichi, Kallakurichi District.

4.The Sub Registrar
O.o.The Sub Registrar,
Sankarapuram, Kallakurichi District.

5.Sellan



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6.Vedathal
7.Vijaya
8.Mariya Pillai
9.Shanmugam
10.Valarmathi

... Respondents

Prayer : Writ appeal filed under Clause 15 of Letters Patent against the order dated 13.06.2024 in WP.No.11221/2024.

For Appellant : Mr.R.Gopinath

For Respondents : Mr.P.Harish,GA for RR2 to 4

JUDGMENT

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The present appeal is directed against the order of the learned Single Judge dated 13.06.2024 in WP.No.11221/2024.
- (2)Brief facts that are necessary for the disposal of this appeal are as follows:
- (3)The appellant purchased the property which is the subject matter of this appeal for a valid consideration by virtue of a registered Sale Deed dated 10.06.1996 registered on the file of the 4th respondent herein. It is the case of the appellant that the revenue records also stood mutated in the



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name of the appellant. It is the further case of the appellant that nearly after fourteen years, the very same vendor, who had sold the property to the appellant herein earlier, had executed another sale deed dated 21.10.2010 which is also registered as Doc.No.5060/2010 to the husband of the 1st respondent herein / writ petitioner. After coming to know about the subsequent sale deed, the appellant gave a representation to cancel the fraudulent registration of the sale deed dated 21.10.2010 to the 3rd respondent herein. The 3rd respondent conducted an enquiry and passed an order, not to make any further registration pursuant to the subsequent sale deed. However, the 1st respondent/writ petitioner preferred an appeal before the 2nd respondent and the same was also rejected. Thereafter, the 1st respondent herein filed a writ petition in WP.No.11221/2024 on the ground that the sale deed cannot be cancelled as the official respondents have no power under Section 68[2] of the Registration Act.

(4)The learned Single Judge of this Court, after hearing the parties, allowed the writ petition after holding that the power of Registrar under Section 68[2] of the Act is only a power of superintendence and that the Circular does not give the power to the Registrar to cancel registered sale deed



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following the judgment of this Court in ***G.Rajasulochana Vs. Inspector General of Registration and Others*** in ***WP.No.29706/2024*** order dated 16.04.2024.

- (5)The grievance of the appellant is that though he was a party to the writ petition, no notice was issued to him.
- (6)The learned counsel for the appellant submitted that the appellant is put to serious prejudice in view of the void sale that has been registered by the Sub Registrar.
- (7)This Court has time and again reiterated the principle that the Registration Act is not a substantive law. The Act does not authorise the Registering Officer to deal with transactions.
- (8)Very recently, a Division Bench of this Court in the case of ***M.Kathirvel Vs. The Inspector General of Registration, Chennai and Others*** [***WP.No.10291/2022 etc., batch order dated 02.08.2024***], struck down Section 77-A of the Registration Act which empowers District Registrar to cancel the document if the registration is in contravention of Section 22-A and Section 22-B of the Registration Act. This Court has also held that



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Section 68 of Registration Act cannot come to the aid of Registrar to cancel the registration of document.

(9)A Division Bench of this Court in ***K.Panchapagesa Ayyar Vs.***

K.Kalyanasundaram Ayyar [AIR 1957 Mad 472], has held as follows:-

"25. The Indian Registration Act unlike the Transfer of Property Act strikes only at documents' and not at transactions. As the Privy Council has pointed in M.E. Moolla & Sons Ltd. v. Officid Assignee, Rangoon, ILR 14 Rang 400 : (AIR 1936 PC 230) (C), "the provisions of the Registration Act by themselves would not operate to render invalid a mere oral sale." In the same way the Indian Registration Act does not require that a transaction affecting immovable properties should be carried out by a registered instrument. "

(10)Merely because the document is registered, it does not confer title in favour of the purchaser. Unless the vendor who conveyed title of the property under the document is the real owner, the title or ownership over the land is not affected by registration of documents. That being the legal position, this Court is unable to entertain this appeal as against the order



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of the learned Single Judge who has only expressed the legal position in precision which is in tune with the settled principles of law, particularly, the recent judgment of this ***WP.No.10291/2022 etc batch [cited supra]***.

(11)Even though it is stated that the appellant is not heard by the learned Single Judge, while disposing of the writ petition, we are not going into the question. However, it is made clear that the appellant's title if it is vested with appellants by the previous sae is not affected by the order passed in the writ petition or in this appeal.

(12)Hence, the writ appeal stands **dismissed**. It is open to the appellant to challenge the sale deed if it is so advised, before the Civil Court under Section 31 of the Specific Relief Act. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [K.R.S., J.]
06.08.2024

AP

Internet : Yes



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To

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and
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