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W.P.No.26404 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26404 of 2024

and

WMP.No.28853 of 2024

1.S.Selvaraj
2.R.Rajesh
3.R.Ranjith

...Petitioners

Vs.

1.The Principal Secretary
Commercial Tax and Registration Department
Secretariat
Fort St. George
Chennai 600009.

2.The Inspector General of Registration
Office of Inspector General of Registration
No.100, Santhom High Road
Pattinampakkam
Chennai 600 028.

3.The District Registrar (Admin)
Namakkal District Registration Office
Office of the District Registrar
RTO Backside, Nallipalayam Post
Namakkal 637 003.



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4.The Sub Registrar
Senthamangalam Sub Registration
Office of the Sub Registrar
Perumal Kovil Otter Street
Senthamangalam
Namakkal 637 409.

5.The Tahsildar
Kollimalai Taluk, Vazhavanthinadu
Kollimalai
Namakkal 637 411.

6.The Inspector of Police
Valavandhinadu Police Station
Semmedu Koilli Hills,
Namakkal District 637 411.

7.C.Sillai Ganesan
8.G.Sillai Arulkumar
9.G.Ramki
10.R.Soludaiya Pazhaniyammal
11.K.Selvaraj
12.E.K.Seeragan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the order passed by the third respondent having Na.Ka.No.3439/A7/2022 dated 01.03.2023 and quash the same and consequently direct the fourth respondent to cancel the document having document No.435 of 2003 dated 30.12.2003 registered with him.



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For Petitioners : Mr.D.Yogeswaran

For Respondents : Mr.M.Shahjahan for R1 to R5
Special Government Pleader
Mr.S.Sugendran for R6
Additional Public Prosecutor

ORDER

Aggrieved by the orders passed by the third respondent rejecting the request of the petitioners to cancel the registered sale deed dated 30.12.2003 registered as Doc.No.435 of 2003 on the file of the fourth respondent, the petitioners have come by way of this Writ Petition.

2. According to the Writ Petitioners, they purchased 1 acre 58 ½ cents in S.No.307. One Kutta Mada Siva Bagkkiyam and 10 others executed a sale deed dated 30.12.2003 in favour of the respondents 7 & 8 without properly mentioning the extent of the property. The said sale deed dated 30.12.2003 was executed by including more extent and then the petitioners submitted an application before the third respondent seeking cancellation of the sale deed executed in favour of the respondents 7 & 8. The said application was rejected by the impugned order by holding that the



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discrepancy with regard to the extent mentioned in the document cannot be gone into by the Registering Authority and the parties were directed to appear before the Civil Court. Aggrieved by the same, the petitioners are before this Court.

3. The learned counsel for the petitioners vehemently contended that the fourth respondent at the time of registering the document failed to verify the parent documents and registered the document by including more extent. Therefore, the third respondent by exercising his power shall cancel the document.

4. In view of the order passed by the Division Bench of this Court in ***M.Kathirvel Vs. The Inspector General of Registration*** in W.P.Nos.10291 of 2022 and batch, striking down Section 77 (A) of the Registration Act, which enabled the registering Authority to cancel the registered document on the ground of fraud, as on today, the Registering Authority is having no power to cancel the documents, which were already registered.



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5. In such circumstances, the prayer sought for in this Writ

Petition cannot be entertained and accordingly, this Writ Petition is dismissed.

However, liberty is granted to the petitioners to workout their remedy before the Civil Court. No costs. Consequently, connected Miscellaneous Petition is closed.

11.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna

To

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