



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.2663 of 2022

and

C.M.P.No.21433 of 2022

Amarunish

... Appellant

Vs.

1. M.A.Thirunavukkarasu

2. The District Registrar (Administration),
Arakkonam Registration District,
Arakkonam.

3. V.R.Ravichandran

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 08.09.2022 passed in W.P.No.21745 of 2022.

For Appellant	: Mr.Jeremiah Gregory John
For R1	: Mr.T.P.Prabakaran
For R2	: Mr.B.Vijay, Additional Government Pleader
For R3	: Not ready in notice

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The Writ Petition was filed by the 1st respondent challenging the enquiry



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notice dated 14.02.2022 issued by the District Registrar, Administration, Arakkonam to conduct an enquiry on the complaint sent by the appellant.

2. The writ court quashed the enquiry notice issued by the 1st respondent and directed to drop all further proceedings initiated by the appellant herein. Thus, the present Writ Appeal came to be instituted.

3. The facts, as established between the parties would reveal that the Power of Attorney executed by the appellant in favour of the 3rd respondent was cancelled on 02.01.2007 and the Cancellation Deed was registered. After cancellation of Power of Attorney, the 1st respondent executed a sale deed in favour of third parties on 22.01.2007. Thus, the appellant preferred a complaint under Section 68(2) of the Registration Act to prosecute the offenders for commission of fraud. Mr.Jeremiah Gregory John, learned counsel for the appellant would submit that the appellant is not seeking cancellation of Sale Deed executed. However, if any fraudulent registration is identified in violation of the procedures, then the District Registrar is empowered to pass orders for criminal prosecution under Section 83 of the Registration Act. In this case, Rule 52 of the Registration Rules had been violated, since the Power of Attorney



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executed by the appellant in favour of the 3rd respondent herein was cancelled on 02.01.2007.

4. The 1st respondent was the purchaser, in whose favour the Sale Deed was executed on 22.01.2007 after cancellation of Power of Attorney. A writ against an enquiry notice is not entertainable in a routine manner. A writ is entertainable, if such enquiry notice has been issued by an incompetent authority having no jurisdiction or tainted with the allegations of *mala fides*. In the present case, though the point of jurisdiction has been raised, the appellant has filed a complaint only for the limited purpose of conducting an enquiry regarding the fraudulent registration of a Sale Deed in violation of the procedures, as contemplated under the Act and Rules in force. Particularly, it is stated that Rule 52 of the Registration Rule has been violated. Therefore, there is no impediment for conducting an enquiry with reference to the allegations set out in the complaint by the appellant. However, the District Registrar is not empowered to cancel the Sale Deed executed on 22.01.2007, since the insertion of Section 77-A cannot be operated retrospectively. The document in question



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was registered in the year 2007. Therefore, the enquiry can be conducted scrupulously with reference to the scope of Section 68 of the Registration Act, 1908. All other disputes relating to title or cancellation of sale deed are to be adjudicated before the competent Civil Court of law in the manner contemplated.



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K.RAJASEKAR, J.

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5. With the above modifications in the order impugned, the Writ Appeal stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

(S.M.S.,J.) (K.R.S.,J.)

21.03.2024

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Index : Yes

Neutral Citation : Yes

To

The District Registrar (Administration),
Arakkonam Registration District, Arakkonam.

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