



WEB COPY



W.P. No.29002 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. No.29002 of 2023
and W.M.P. No.28580 of 2023

A.Abdul Samad

... Petitioner

Vs

1. Inspector General of Registration
Office of Inspector General of Registration
Santhome, Chennai - 600 004

2. District Registrar
Office of District Registrar
Chidambaram
Cuddalore - 608 001

3.No.1, Joint Sub Registrar
Chidambaram - 608 001

4.N.A.S.Ansari

5.Meharaja Begum @ Raj Sasiknok

6.Basudeen

7.Mohamed Rafi

8.Sulthan Sikandar

... Respondents



W.P. No.29002 of 2023

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned registration of the delivery receipt dated 12.02.2020 as Document No.1507 of 2020 dated 19.06.2020 from the file of 3rd respondent, No.1 Joint Sub Registrar of Chidambaram in connection with the Execution Petition in E.P. No.79 of 1988 in O.S. No.92 of 1976 on the file of Sub Court Chidambaram and quash the same as null and void, illegal and barred by Section 23 of the Indian Registration Act, 1908 and direct No.1 Joint Sub Registrar Chidambaram to cancel the relevant entry of registration dated 19.06.2020 pertaining to Document No.1507 of 2020 from the concerned book of registration.

For Petitioner : Ms.P.L.Narayanan, Senior Counsel
for Mr.J.Ravikumar

For Respondents : Mr.L.S.M.Hasan Fizal
Addl. Govt. Pleader for R1 to R3

Mr.M.V.Swaroop
for R5 to R8

ORDER

Challenge has been made to the registration of the delivery receipt dated 12.02.2020 as Document No.1507 of 2020 dated 19.06.2020 by the third



W.P. No.29002 of 2023

WEB COPY

respondent in connection with Execution Petition in E.P. No.79 of 1988 in O.S. No.92 of 1976 on the file of Sub Court Chidambaram and quash the same as null and void, illegal and barred by Section 23 of the Indian Registration Act, 1908 and consequently for a direction to the third respondent to cancel the relevant entry of registration dated 19.06.2020 pertaining to Document No.1507 of 2020 from the concerned book of registration.

2. It is the case of the petitioner that the subject matter of the property, a site with building measuring 468 sq.ft. bearing Door No.73, was originally purchased by one Mrs.A.Rahamath Beevi by virtue of a registered sale deed dated 25.04.1996 registered as Document No.1151 of 1996. The said original sale deed is within the hands of the mortgagee and the registration copy of the same was mortgaged. The adjacent land is also settled in favour of petitioner's mother's elder sister under a Settlement Deed dated 11.03.2009. Both properties were converted as a shop. In the meanwhile, one Abdul Rasheed obtained a compromise decree under Order XXIII Rule 1 CPC dated 14.10.1982 in O.S. No.92 of 1976 and in execution of the above decree, a receipt has been fraudulently created and a delivery order has been effected in E.P. No.79 of 1998. Hence this writ petition.



W.P. No.29002 of 2023

WEB COPY

3. The crux of the petitioner's case is that the very delivery receipt has been created fraudulently and got it registered beyond the period of four months. Hence a direction is sought to enquire the matter by the Sub Registrar and for cancellation of the delivery receipt.

4. Counter has been elaborately filed by the private respondents. At the outset, the counter has been made disputing the allegations. This court is of the view that the counter itself is not required to dispose of this writ petition.

5. The grievance of the writ petitioner appears to be with regard to the alleged fraudulent delivery receipt and its registration before the registering authority. According to the writ petitioner, he is in possession of the property and private respondents also claim title over the property. Since there is a dispute between the parties over the particular property and if at all the petitioner is able to show that the alleged delivery receipt has been fraudulently created and registered later, it is open to the writ petitioner to establish the said factum before the concerned court where the alleged fraudulent activities took place and not before the Sub Registrar. Therefore, it is well open to the writ petitioner to file an appropriate suit or petition to annul the alleged document,



W.P. No.29002 of 2023

which is said to have been obtained by playing fraud. Hence a mere entry in the encumbrance with regard to the receipt, will not come in the way of the petitioner establishing the alleged fraud in an appropriate forum. It is also directed that the same court may take into consideration the time spent in this writ petition while considering the application for limitation.

6. With the above direction, the writ petition is disposed of. However, there is no order as to costs. Consequently, the connected writ miscellaneous petition is closed.

26.06.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr

To

1. Inspector General of Registration
Office of Inspector General of Registration
Santhome, Chennai - 600 004

2. District Registrar
Office of District Registrar
Chidambaram
Cuddalore - 608 001



W.P. No.29002 of 2023

3.No.1, Joint Sub Registrar
Chidambaram - 608 001

4.The Government Pleader
High Court, Madras



WEB COPY



W.P. No.29002 of 2023

N.SATHISH KUMAR, J.

Asr

W.P. No.29002 of 2023
and W.M.P. No.28580 of 2023

26.06.2024