



W.A.No.3382 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.3382 of 2023
and
C.M.P.No.27618 of 2023

G.Ravi

... Appellant/Petitioner

Vs.

1. The Sub Registrar,
The Sub-Registration Office,
Pozhichalur, Chennai-600 074.

2. Vairamuthu

3. Arulmigu Ranganatha Perumal Thirukoil,
Rep. by its Executive Officer,
Thiruneermalai, Chennai-600 064.

... Respondents/Respondents

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 10.10.2023 passed in W.P.No. 29329 of 2023, by the learned Single Judge by allowing the above writ Appeal.

For Appellant : Mr.E.Prabu

For Respondents : Mr.U.Baranidharan,
Additional Government Pleader,(for R1)
No Appearance (for R2 & R3)



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JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The writ appeal on hand has been instituted challenging the order dated 10.10.2023 passed in W.P.No.29329 of 2023. The writ petitioner is the appellant before us.

2. The writ proceeding was initiated seeking a direction to direct the Sub-Registrar, Pozichalur, to accept and register the sale deed dated 05.09.2023 presented by the writ petitioner through his power agent S.Ramesh Kumar. Since the sale deed presented for registration was refused, the petitioner has chosen to file the writ appeal.

3. The learned counsel for the petitioner Mr.E.Prabu would submit that the Sub Registrar has not even received the document for scrutinisation. As per the judgement of the Division Bench of this Court, the Sub Registrar ought to have received the documents, conduct an inquiry and thereafter, an order to be passed. Contrarily he has not even received the document and thus, the writ petition came to be instituted.



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4. Mr.Prabu, learned counsel for the petitioner would submit that the petitioner is the absolute owner of the subject property. He is in possession of all the relevant documents. The property was classified as "Grama Natham" and it was assigned his favour. A sale deed was executed and the petitioner constructed building. Therefore, he is the owner of the property and in possession. Without considering any of these facts, the Sub Registrar refused to receive the document presented for registration under the Registration Act. The learned Single Judge relegated the parties to approach the Civil Court. Question of approaching the Civil Court would not arise in the present case since the petitioner is the absolute owner and more so, Sub Registrar failed to conduct an inquiry. Thus, the appeal is to be considered.

5. Learned Additional Government Pleader, appearing on behalf of the first respondent, would oppose by stating that under Section 22A of the Registration Act, the Sub Registrar refused to receive the document. Thus, there is no infirmity. Admittedly the third respondent temple "Arulmigu Ranganatha Perumal Thirukoil" filed an objection to register the properties belonging to the temple, including the subject property. In



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other words the third respondent temple claims title over the subject property and therefore, the Sub Registrar has rightly refused to receive the documents. The Writ Court also rejected the claim of the petitioner and thus, the writ appeal is to be rejected.

6. Considering the arguments as advanced between the parties to the lis on hand, let us first consider the scope of Section 22(A) of the Registration Act 1908. Section 22(A) was inserted by Tamil Nadu Act 28 of 2012 and it came into effect from 20.10.2018. Section 22A contemplates notwithstanding anything contained in this Act, the Registering Officer shall refuse to register any of the following documents. Section 22(A)(1)(ii) denotes that "*belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable*". Therefore, the Registering Officer shall refuse to register if there is an objection from the temple claiming title/right over the properties. Thus, on receipt of any objection from the temple authority/ H.R. & C.E. Department, the Registering Officer under the Registration Act shall refuse to register any document presented for registration.



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7. The Sub Registrar/ Registering Authority is not empowered to conduct an inquiry under Section 22A of the Registration Act. Therefore, the Registering Officer, in the event of an objection from the temple authorities is bound to refuse the documents. An aggrieved person has to approach the Civil Court for establishing his title in the manner known to law. Thus, the Sub Registrar/Registering Officer has no authority to conduct an inquiry and decide whether the document presented by the presentent is to be registered or not. Mere objection from the temple authorities would be sufficient to refuse the document under Section 22A of the Registration Act.

8. Power to conduct summery inquiry has been conferred to the District Registrar under Section 77A of the Act to cancel the registered documents. Even Section 77A can be exercised if the document has been registered fraudulently or by way of impersonation and in violation of the provisions of the Registration Act. In this context, the Registrar, either suo moto or on complaint received from any person, is of the opinion that the registration of the document is made in contravention of Section 22 (A) or Section 22(B) shall issue a notice to the executent and all the parties to the



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document and parties to subsequent documents, if any, and all other persons, who are in the opinion of Registrar, may be effected by the cancellation of the document, to show cause as to why the registration of the document shall not be cancelled. On consideration of the reply, if any received, then the Registrar may cancel the registration of the document and cause to enter such cancellation in the relevant books and indexes. Therefore, in the event of registering a document, in contravention to Section 22A or Section 22B, the District Registrar under Section 77A of the Act is empowered to conduct an inquiry to determine whether such documents are registered fraudulently or in violation of the other provisions of the Registration Act.

9. Fraud, in common parlance, cannot be adjudicated by the District Registrar under the provisions of the Registration Act. The scope of adjudication under Section 77A is also limited. The District Registrar cannot decide the title/ownership or civil rights between the parties. During the course of such inquiry, if the District Registrar found that the registration of a document is fraudulent with reference to Section 32 to 35 of the Act or impersonation, then alone the document can be cancelled and if the civil rights are to be established between the parties, then the parties



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are to be relegated to approach the competent Civil Court in the manner known to law.

10. In other words, the document escaped under Section 22A and 22B can be subjected to Section 77A and 77B of the Registration Act.

11. Therefore, the right to adjudication of the presentment of the document, in the event of an objection under Section 22A of the Act, vest before the Civil Court and not before the authorities under the Registration Act. Even the scope of Section 77A is limited and document under Section 77A may be cancelled only if there is an impersonation or fraudulent registration within the meaning of Section 32 to 35 of the Act and in respect of all other frauds regarding claiming of title in common parlance deserves to be adjudicated before the Civil Court of law.

12. In the present case, admittedly, the temple authorities filed an objection before the Sub-Registrar/Registering Officer. Thus, the Sub Registrar is right in not receiving and registering the document and relegating the parties to approach the Civil Court. The learned Single Judge has rightly arrived at a conclusion that the title dispute cannot be resolved by the authorities under the registration Act. Further, the learned



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Single Judge relegated the petitioner to approach the Competent Civil Court in the manner known to law. Therefore, we do not find any infirmity in respect of the order impugned.

13. Accordingly, the writ order stands confirmed and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

19.02.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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To
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