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W.P.No.172 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.172 of 2024

and

W.M.P.No.188 of 2024

1.E.Sathiyadoss

2.J.Jayaseelan

... Petitioners

versus

1. Deputy Inspector General of Registration,
Chennai Zone, Anna Salai,
Nandanam, Chennai – 600 035.

2.The District Registrar,
Chennai South, Anna Salai,
Nandanam, Chennai.

3.Arulnathan

4.Thirumalai

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, call for the records pertaining to Order No.5313/B1/2022, dated 27.03.2023 on the file of the first respondent and quash the same.

Pg.Nos.1/7



WEB COPY



W.P.No.172 of 2024

For Petitioners : Mr.Adinarayana Rao

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
for R1 and R2

ORDER

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for respondents 1 and 2. Since this writ petition is being disposed of without passing any adverse orders against respondents 3 and 4 affecting their interest, notice to those respondents is dispensed with.

2. This writ petition has been filed to quash the impugned order dated 27.03.2023 passed by the first respondent vide No.5313/B1/2022.

3. The case of the petitioners is that originally the subject property belongs to their family. In order to grab the subject property, one Ponnusamy and Arumugam by using a fabricated Patta bearing Patta



W.P.No.172 of 2024

No.2295 and created a forged settlement deed in favour of Thirumalai and Durai and registered the same as Doc.Nos.3755/2011, 3756/2011, 3759/2011 and 3760/2011 dated 20.04.2011. Similarly settlement deeds were created in the name of one Arulnathan, which was registered as Doc.No.5904 of 2005, dated 20.07.2005. Thereafter, the said Arulnathan has executed two general power of attorney and using a said power, created a Doc.No.10767 of 2018. Hence, the first petitioner's father gave a complaint to the Revenue Department. After enquiry, the Revenue Department issued a certificate confirming that Patta No.2295 was a fabricated document. Hence, a case in Crime No.22 of 2019 was registered against the private respondents herein and others. Subsequently, FIR was quashed on technical grounds. Further, the first petitioner's father has given a representation dated 01.11.2019 to the Inspector General of Registration and the District Registrar, for cancellation of forged documents. While so, the second respondent after conducting enquiry cancelled the alleged fraudulent documents vide order dated 25.08.2022, holding that all the documents were created based on the forged Patta No.2295. Challenging the same, the private respondents herein filed an appeal before the first



W.P.No.172 of 2024

respondent. The first respondent without considering the nature of the litigations, allowed the appeal and directed the petitioners to approach the Civil Court, wrongly by considering the recitals of the document viz., a comprise decree between the private respondents and the third parties in O.S.No.137 of 2002. In the said suit neither the petitioners nor his predecessor in title were parties. Hence, the present writ petition has been filed.

4. The learned counsel for the petitioners submitted that without having any right and title over the subject property, the private respondents herein have created the forged Patta vide Patta No.2295, based on that they registered the documents. Therefore, the documents registered based on the forged Patta are liable to be cancelled.

5. On a reading of the impugned order passed by the first respondent, it is seen that the first respondent felt that since there was a cloud in title, directed the petitioners and the private respondents to approach the Civil Court. The FIR was already quashed at the time of registering the document.



W.P.No.172 of 2024

Whether the Patta is genuine or forged cannot be decided without proper evidence. Since there is a cloud in title, it requires oral and documentary evidence. Either the Registration Department or the Writ Court cannot decide the title. Therefore, this Court does not find any perversity or infirmity in the order passed by the first respondent.

6. In view of the above, this writ petition is dismissed. However, the petitioners are at liberty to work out their remedy in the manner known to law. There shall be no order as to costs.

7. W.M.P.No.188 of 2024 is ordered on payment of separate Court fees by each of the petitioners.

08.01.2024

Index: Yes/No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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Pg.Nos.5/7



WEB COPY



W.P.No.172 of 2024

To

1. The Deputy Inspector General of Registration,
Chennai Zone, Anna Salai,
Nandanam, Chennai – 600 035.

2. The District Registrar,
Chennai South, Anna Salai,
Nandanam, Chennai.



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W.P.No.172 of 2024

P.VELMURUGAN, J.

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W.P.No.172 of 2024

08.01.2024

Pg.Nos.7/7