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W.A.No.212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.No.212 of 2024

and

C.M.P.No.1256 of 2024

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Office of the District Registrar,
No.1, S.Pilliar Street,
Kuralagam, North Chennai,
Chennai – 600 104.

3.The Sub-Registrar,
Ambattur,
Chennai.

... Appellants

Vs.

D.G.Nathan @ Gowrinathan

... Respondent



W.A.No.212 of 2024

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the interim order dated 07.12.2023 in W.P.No.27515 of 2019 on the file of this Court.

For Appellants : Mr.P.Harish
Government Advocate

Respondent : Died

J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Writ Appeal is directed against the interim order of the learned Single Judge of this Court made in W.P.No.27515 of 2019, dated 07.12.2023, imposing a cost of Rs.25,000/- each to the appellants 2 and 3. The learned Judge further directed that the appellants 2 and 3 shall pay the amount from their salary and not from the Government exchequer to the credit of Chief Justice Relief Fund.

2.The reason for imposing cost as stated by the learned Single Judge is as follows :



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“Even after pandemic situation, the respondents have not filed their counter. This lethargic attitude of the respondents is highly deprecated, since the respondents have not filed their counter affidavit from the year 2019.”

3.From the order of the learned Single Judge, this Court finds that the learned Judge has not given any proper or valid reason for imposing exemplary cost of Rs.25,000/-. The official respondents are expected only to give instructions to the Government Pleader who shall prepare the counter affidavit and file it. This Court is unable to sustain the order imposing cost of Rs.25,000/- each on the appellants 2 and 3 for not filing counter affidavit in the writ petition which was filed in 2019. The learned Judge has not even issued notice to the persons who are holding office before passing the impugned order. The order is therefore in violation of principles of natural justice. It is not necessary that in all cases, counter affidavit has to be filed. There are other factors which should be looked into before finding fault with the official respondents for not filing counter affidavit. In the absence of any reason to sustain the order impugned, this Court finds that the appellants cannot be mulcted with such exemplary cost even for not filing counter



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affidavit.

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4.It is to be noted that the order impugned in the writ petition is an order refusing to register unilateral cancellation deed executed by the person who had earlier executed settlement deed. The order impugned in the writ petition is in accordance with the law settled by this Court in several judgments, particularly in the judgment of Full Bench of this Court in ***Sasikala v. The Revenue Divisional Officer-cum-Sub Collector and another*** reported in ***AIR 2022 MAD 323***. Even a counter affidavit is not required in this case by the Court. The learned Judge ought to have dismissed the writ petition in view of the law settled by this Court in a catena of judgments. Therefore, the direction imposing cost is not warranted, as the order impugned in the writ petition is in tune with the law settled by this Court in several judgments. Learned counsel appearing for the appellants also submitted that the main writ petition also was dismissed on merits.



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5.Hence, the impugned order, dated 07.12.2023, imposing cost of Rs.25,000/- on appellants 2 and 3 for not filing counter affidavit in the writ petition, is set aside. Accordingly, this Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (K.R.S., J.)
06.08.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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S.S. SUNDAR, J.



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