



W.A(MD)No.230 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.02.2024

PRONOUNCED ON : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.230 of 2024
and
C.M.P.(MD)No.1999 of 2024

N.R.Krishnamoorthy Raja

... Appellant / Writ Petitioner

Vs.

1.The District Registrar (Admin),
Virudhunagar District,
Virudhunagar.

2.The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District.

3.V.N.Ramasamy Raja

4.P.B.Ganesh Singh Raja

5.R.S.Raju

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.19582 of 2021 by thic Court, dated 22.12.2023.



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For Appellant : Mr.S.Natarajan
Senior Counsel
for M/s.Vijayakumari Natarajan

For Respondents : Mr.S.Shanmugavel
: Additional Government Pleader

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The writ petitioner is the appellant.

2. The instant writ petition has been filed seeking to quash the order of the District Registrar, dated 18.08.2021 and to direct him to initiate action based upon the complaint lodged by the writ petitioner on 03.06.2020. The Writ Court after considering the submissions on either side, had dismissed the writ petition on the ground that the writ petitioner does not have any title over the property. Challenging the same, the present writ appeal has been filed.

3. The facts leading to the filing of the present writ appeal are as follows:

(i) The writ petitioner had claimed that he is the owner of certain extent of land in Survey No.297/1 in Rajapalayam Taluk. Alleging that the said property had been transferred illegally by the 3rd respondent in the writ petition



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on 20.12.2007 in favour of the 4th respondent and in turn, he had transferred the same in favour of the 5th respondent on 08.06.2015, the petitioner had lodged a complaint before the 1st respondent herein on 03.06.2020 to cancel the said document and for initiating appropriate proceedings as against the concerned Sub Registrar for registering the said document.

(ii) The District Registrar under the order impugned in the writ petition after giving due opportunity to both the parties, had arrived at a finding that once a document had been registered, thereafter, raising a title dispute, an application cannot be presented for cancellation of the said document. The 1st respondent herein had further relied upon the Civil Court decree to arrive at a finding that the writ petitioner do not have any title over the said property.

(iii) The writ petitioner had challenged the said order in W.P(MD)No. 19582 of 2021 contending that adverse findings have been rendered as against the title of the 3rd respondent in the writ petition in O.S.No.329 of 1995. Despite the adverse findings, the 3rd respondent had proceeded to alienate the said property in favour of the 4th respondent and he in turn, had alienated the



same in favour of the 5th respondent. Therefore, these two documents should be considered to be forged documents without any title whatsoever.

(iv) The respondents in the writ petition had contended that the suit filed by the writ petitioner for declaration of title and permanent injunction has been dismissed by the trial Court on 16.06.2000. The writ petitioner had filed A.S.No.23 of 2000 before the Sub Court, Srivilliputhur and the appeal was also dismissed on 26.03.2003. The petitioner had preferred S.A.No.1040 of 2004, which was also dismissed by this Court on 18.07.2018. Hence, they contended that the writ petitioner do not have any title over the property and merely because some adverse findings have been rendered as against the 3rd respondent in the writ petition, that would not take away the title of the 3rd respondent. The respondents in the writ petition had also questioned the *locus standi* of the writ petitioner.

(v) The Writ Court after considering the submissions on either side, had dismissed the writ petition primarily relying the findings of the Civil Court as well as on the ground that the petitioner has no *locus standi* whatsoever to



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question the documents that were executed by the 3rd and 4th respondents.

Challenging the same, the present writ appeal has been filed.

4. The Contentions of the learned Senior Counsel appearing for the appellant are as follows:

(i) The learned Senior Counsel had primarily contended that the Writ Court ought not to have arrived at a finding that the petitioner is not an aggrieved person. In fact, the petitioner as well as the respondents herein are parties to a civil suit, in which there is a specific finding that the 3rd respondent does not have any title over the suit schedule property. He further contended that the judgments relied upon by the Writ Court are in no way relevant for the decision to be arrived at in the present writ petition.

(ii) The learned Senior Counsel had further contended that challenging the adverse findings rendered by the trial Court, the 3rd respondent herein who was a party to the suit had not filed any cross objection / cross appeal and thereby admitting that he does not have any title over the property. In such an event, the Writ Court ought not to have dismissed the writ petition. He further



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contended that after the Civil Procedure Code was amended in the year 1976, a cross appeal is maintainable even as against the adverse findings.

(iii) Merely because the suit for declaration of title filed by the writ petitioner was dismissed, that will not automatically confer any title upon the 3rd respondent herein, unless he independently establishes his title over the disputed property.

(iv) When a fraud has been committed in registering the disputed property by the 3rd respondent in favour of the 4th respondent, the 1st respondent is vested with the power to initiate action as per the complaint lodged by the writ petitioner.

(v) The learned Senior Counsel had further contended that the Writ Court does not properly appreciated the judgment relied upon by the writ petitioner reported in **2021 (1) CTC 839 (J.Jayaniithaa Vs. The Inspector General of Registration and others)** and the order of this Court, dated 09.10.2020 made in **W.P(MD)No.14075 of 2020 (N.R.Krishnamoorthy Raja Vs. The District Registrar (Admin), Virudhunagar District & Others)**, wherein this Court has



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directed the District Registrar to initiate action under Section 68 (2) r.w Section 83 of the Registration Act 1908.

(vi) The learned Senior Counsel had relied upon the judgment of the Hon'ble Supreme Court reported in **1996 (5) SCC 550 (Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd.,)** to impress upon the Court that when fraud has been committed before the Court, it amounts to an abuse of the process of Court. Any decree obtained by committing fraud before the Court, the Court is obliged to decide the question regarding fraud recording evidence and in appropriate cases, it can recall its order. The learned Senior Counsel further relied upon the judgment of this Court reported in **2021 (1) CTC 839 (J.Jayaniithaa Vs. The Inspector General of Registration and others)** to fortify his submissions that when the registering authorities had registered the documents in violation of the orders of the Court, the same should be considered to be fraudulent in nature and the document ought to be set aside, leaving the parties to approach the Civil Court. The learned Senior Counsel further relied upon the judgment of this Court reported in **2006 (4) MLJ 1257 (G.Ayyakkonar Vs. Inspector General of Registration, Chennai & Others)** to contend that when conveyance of a property has been effected by fraud or



undue influence, the registering authority has to insist upon exact compliance with the provisions of the Act. As soon as the registration authority is informed that fraud has been committed, they should initiate immediate action. Relying upon these judgments, the learned Senior Counsel sought to allow the writ appeal.

5. We have carefully considered the submissions made on the side of the appellant and perused the material records.

Discussion:

6. The petitioner herein along with 5 others had filed O.S.No.329 of 1995 before the Additional District Munsif Court, Srivilliputhur claiming declaration of title and permanent injunction as against the 3rd respondent herein (V.N.Ramasamy Raja) and 4 others. It is not in dispute that the present disputed property of 5 cents is also subject matter of the said suit. After full-fledged trial, the trial Court had dismissed the said suit. However, there are some adverse findings as against the 3rd respondent herein that he has also not established his title over the disputed property.



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7. The petitioner herein had filed A.S.No.23 of 2000 before the Sub Court, Srivilliputhur challenging the decree of the trial Court. The appeal was dismissed on 26.03.2003 confirming the judgment and decree of the trial Court. Challenging the same, the petitioner had filed S.A.No.1040 of 2004 which was dismissed by this Court on 18.07.2018. These facts are not in dispute.

8. The primary contention of the learned Senior Counsel appearing for the writ petitioner is that in the judgment of the trial Court in O.S.No.329 of 1995, dated 16.06.2000, there are adverse findings with regard to the fact that the 3rd respondent herein has not proved his title over the said property. Despite the said adverse findings, the 3rd respondent has proceeded to execute a sale deed in favour of the 4th respondent on 20.12.2007 and the 4th respondent in turn, had executed the sale deed in favour of the 5th respondent on 08.06.2015. Hence, according to the writ petitioner, these two documents are fraudulent in nature and therefore, the District Registrar ought to have interfered and cancelled these documents.

9. It is settled position of law that a first appeal is maintainable only as against an adverse decree and not against an adverse finding. Therefore, non-



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filing of any cross appeal/cross objection as against the adverse findings of the trial Court by the 3rd respondent cannot be found fault with, especially when the suit has been dismissed in entirety by the trial Court. The Writ Court has rightly relied upon the judgment of the Hon'ble Supreme Court reported in **2022 (1) CTC 235 (Saurav Jain & Others Vs. A.B.P.Design & Others)** to the said effect.

10. The Civil Court has categorically found that the petitioner does not have any title or possession to the property in dispute. That finding has been confirmed in second appeal by this Court. When that being the position, the petitioner cannot question the sale deed executed by the 3rd respondent in favour of the 4th and 5th respondents. When the petitioner has no title over the disputed property, he has no *locus standi* to question the sale deed executed by the 3rd and 4th respondents.

11. When the petitioner is not the owner of the property, it is for the real owner to challenge the sale deeds executed by the 3rd and 4th respondents herein, if he is so aggrieved. The initiation of proceedings before the District Registrar by the writ petitioner herein is only a second attempt to grab the property, after the Civil Court has held that he had no title over the said



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property. Unless the petitioner has got any *locus standi*, he cannot question the sale deeds executed by the 3rd respondent in favour of strangers.

12. The appellant is said to have filed a review petition as against the judgment and decree in S.A.No.1040 of 2004. He can work out his remedies therein. In view of the above said deliberations, we are of the considered opinion that there are no grounds to interfere in the order passed by the Writ Court. Accordingly, this Writ Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

(D.K.K.,J.) (R.V.,J.)
01.03.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
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To

- 1.The District Registrar (Admin),
Virudhunagar District,
Virudhunagar.
- 2.The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District.



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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
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