



W.P.(MD)No.3532 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.P.(MD)No.3532 of 2023**  
**and**  
**W.M.P.(MD)Nos.3289 and 3290 of 2023**

A.P.Kumaraguru

... Petitioner

versus

1. The Inspector General of Registration,  
O/o. The Inspector General of Registration,  
100, Santhom Highways,  
Pattinappakkam,  
Chennai.

2. The District Registrar,  
Administration, Madurai North,  
Madurai.

3. The Sub Registrar,  
O/o. The Sub Registrar,  
Othakadai,  
Madurai.

4. The Tahsildar,  
Madurai East Taluk,  
Madurai District,  
Madurai.

5. Ambaresan

... Respondents



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**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the 2<sup>nd</sup> respondent in his proceedings in Na.Ka.No.1742/A3/2022 dated 11.01.2023 and quash the same as illegal.

For Petitioner : Mr.M.Ajmalkhan,  
Senior Counsel  
for M/s.Ajmal Associates  
For R1 to R4 : Mr.C.Satheesh,  
Government Advocate  
For R5 : Mr.R.Suriyanarayanan

### **ORDER**

This writ petition has been filed challenging the impugned order passed by the 2<sup>nd</sup> respondent in his proceedings in Na.Ka.No.1742/A3/2022 dated 11.01.2023.

2. The learned Senior Counsel appearing for the petitioner submits that a property measuring to an extent of 4.90 acres situated in S.No.184/1 originally belonged to one Karupana Ambalam, who executed a registered Will dated 07.08.1926 in favour of his grandsons, namely, Ramasamy Ambalam and one Pandi and thereafter, they had partitioned the said property equally. The said Ramasamy Ambalam executed a settlement deed in favour of one R.Velu, in respect of 50 cents on the southern side of the entire land. The said Velu



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executed a sale deed dated 19.03.1981 in favour of one Sangarammal, vide a registered Document in Doc.No.349/1981, who in turn sold the property vide a registered sale deed in Doc.No.1959/1995 dated 06.09.1995 in favour of one Devika Rani Balakrishnan. The said Devika Rani Balakrishnan executed a sale deed in Doc.No.1758/2010 dated 12.05.2010 in favour of one Sheik Mohamed Ferojdheen, from whom, the petitioner has purchased the property vide a registered sale deed in Doc.No.3748/2011 dated 07.07.2011. Thereafter, patta was also mutated in the petitioner's name. From the date of purchase, the petitioner is in possession and enjoyment of the property. While so, the 5<sup>th</sup> respondent gave a complaint on 26.02.2022 to the 2<sup>nd</sup> respondent seeking to cancel the above said documents, namely, Document Nos.1959/1995, 1758/2010 and 3748/2011. Based on that complaint, the 2<sup>nd</sup> respondent, without considering the abovesaid facts and without affording an opportunity of hearing, has passed the impugned order cancelling the documents right from the year 1995. Therefore, the impugned order suffers from violation of principles of natural justice.

3. The learned Senior Counsel further submits that Section 77A of the Registration Act came into force only on 16.08.2022 and the same is only



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prospective in nature. But, the 2<sup>nd</sup> respondent, by invoking the said provision, passed the impugned order, cancelling the abovesaid documents. Therefore, the impugned order is not sustainable in law and the same is liable to be set aside.

4. The learned counsel appearing for the 5<sup>th</sup> respondent submits that the 5<sup>th</sup> respondent has purchased a plot No.16 from the legal heirs of Manickam Asari in the year 2004. The said property originally belonged to one Ramasamy Ambalam and he sold the said property to one Manickam Asari in the year 1982 and thereafter, the 5<sup>th</sup> respondent has purchased the property from the legal heirs of the said Manickam Asari. According to the 5<sup>th</sup> respondent, totally, there are 23 plots in the subject property, out of which, 9 plots (Plot Nos.1 to 9 in 50 cents) belonged to the said Sankarammal and the remaining plots belonged to the said Ramasamy Amabalam. The said Sankarammal has sold the said plots 1 to 9 to various persons in the year 1981 itself. However, the plot No.16 belonging to the said Ramasamy Ambalam was sold by the said Sankarammal to the said Devika Rani Balakrishnan, from whom, the said Sheik Mohamed Ferojdheen purchased the property, who in turn sold the property to the petitioner. Therefore, the 5<sup>th</sup> respondent has given the complaint to the second respondent to cancel the above said documents. Based on the said complaint,



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the impugned order came to be passed.

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5. Heard the learned Senior Counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the 5<sup>th</sup> respondent.

6. The Registering Authority has no power to cancel any registered documents, as per the law laid down by the Hon'ble Supreme Court in ***Satya Pal Anand vs. State of Madhya Pradesh and others*** reported in (2016) 10 SCC 767 and also by this Court in ***G.Rajasulochana Vs. Inspector General of Registration and others*** (W.P.No.29706 of 2022).

7. Mere sale of property by a person believing that he/she himself/herself is the owner of the property, cannot be constituted an offence of forgery. When there is a dispute between the parties, a title has to be established. Without establishing the title and only based on the allegations, the documents cannot be cancelled and it is a matter of evidence to be decided only by the competent Civil Court. Therefore, the impugned order passed by the 2<sup>nd</sup> respondent is liable to be set aside.



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7. Accordingly, this writ petition is allowed and the impugned order passed by the 2<sup>nd</sup> respondent in his proceedings in Na.Ka.No.1742/A3/2022 dated 11.01.2023 is hereby set aside. The parties shall workout their remedy in the Civil Court. The second respondent is directed to remove the entries made in the encumbrance based on the impugned order. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No  
Index : Yes/No  
Internet: Yes/No.  
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**N.SATHISH KUMAR, J.**

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