



W.P(MD)No.8097 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.8097 of 2023

and

W.M.P.(MD)No.7465 of 2023

Yasin Mohamed

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Tirunelveli Zone, Tirunelveli.

2.The District Registrar,
Tenkasi District, Tenkasi.

3.The Sub Registrar,
Kadayanallur Sub-Registrar Office,
Tenkasi District.

4.Murugesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 28.03.2022 passed by the 1st respondent in Na.Ka.No.5146/U/TP/2019 confirming the impugned order dated 20.08.2019 passed by the 2nd respondent in No.2704/A2/2019 and to quash the same and consequently, to direct the respondents 1 to 3 to remove the entries made in the encumbrance certificate pursuant to the impugned order dated 20.08.2019 passed by the 2nd respondent within a time that may be fixed by this Court.



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For Petitioner : Mr.K.Navaneetharaja
For R1 to R3 : Mr.M.Siddharthan,
Additional Government Pleader

ORDER

The order of the 1st respondent dated 28.03.2022, confirming the order of the 2nd respondent dated 20.08.2019, where the documents executed in favour of the petitioner are classified as fraudulent documents, is under challenge in this Writ Petition.

2.It is the case of the petitioner that the land in Survey No.328/1B to an extent of 877.25 sq.ft situated at Krishnapuram Village, Kadayanallur Municipality was originally belonged to one Balasubramanian. He sold the property to one Arunachala Thevar through a registered sale deed in Document No.509 of 1998. The said Arunachala Thevar sold a portion of the land to an extent of 302.5 sq.ft to one Samsudeen through a registered sale deed in Document No.3188 of 2003. The said Arunachala Thevar purchased the land in Survey No.328/2B from one Saravanan through a registered sale deed in Document No.2355 of 2004. Thereafter, the said Arunachala Thevar sold the remaining portion of the land in Survey No.328/1B to an extent of 574.25 sq.ft,



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and the land in Survey No.328/2B to the petitioner through a registered sale deed in Document No.2536 of 2004. Thereafter, the said Samsudeen sold the land in Survey No.328/1B to an extent of 302.5 sq.ft to the petitioner through a registered sale deed in Document No.2663 of 2004. From the date of purchase, the petitioner has been in possession and enjoyment of the same. In such circumstances, one Ramachandran and the 4th respondent made a complaint before the 2nd respondent, stating that the properties in question are belonged to them and seeking to classify the aforesaid documents as fraudulent documents and make necessary entries in the encumbrance certificate. The 2nd respondent, vide order dated 20.08.2019, classified the aforesaid documents as fraudulent documents. On appeal, the 1st respondent, vide order dated 28.03.2022 confirmed the order of the 2nd respondent. Challenging the same, the petitioner has filed this Writ Petition.

3.This Court is of the view that merely because a person has raised some title dispute, it cannot be a ground to cancel the document already registered. Further, the very Section 77(A) inserted under Registration Act is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court



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as per *Satya Pal Anand v. State of M.P.[2016 10 SCC 767]* and G.

Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024.

4.In view of the above settled position of law, the impugned order of the 1st respondent dated 28.03.2022 as well as the 2nd respondent dated 20.08.2019 are quashed and this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

29.08.2024

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

Yuva

To

- 1.The Deputy Inspector General of Registration,
Tirunelveli Zone, Tirunelveli.
- 2.The District Registrar,
Tenkasi District, Tenkasi.
- 3.The Sub Registrar,
Kadayanallur Sub-Registrar Office,
Tenkasi District.



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N.SATHISH KUMAR, J

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