



W.P(MD).No.10356 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.10356 of 2023

and

W.M.P(MD).No.9183 of 2023

S.Anbalagan

... Petitioner

Vs.,

1.The District Registrar of Registration (Administration),
Tirunelveli.

2.The Sub Registrar,
Pudukottai Sub Registrar Office,
Thoothukudi, Thoothukudi District.

3.Joseph Xavier Narious Fernando
rep., by its power agent
Rozario Gaitan Motha
S/o.Antony Motha

4.Joseph Xavier Narious Fernando
S/o.Cruz Fernando

... Respondents

(R4 is impleaded vide Court order dated 27.09.2024 made in W.M.P(MD).No. 13758 of 2023 in W.P(MD).No.10356 of 2023 by NSKJ)

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order issued by the first respondent in Na.Ka.No.5895/E2/2019 dated 03.12.2021



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and quash the same and consequently direct the second respondent to remove the entry in the encumbrance register.

For Petitioner : Mr.B.Saravanan
Senior Counsel
for Mr.Jeganathan.C
For Respondents : Mr.M.Siddharthan (for R1 & R2)
Additional Government Pleader
Mr.F.X.Eugene (for R4)

ORDER

Challenge has been made against the impugned order, wherein it is directed to make entry with regard to the document in Doc.No.1079/2019 is fraudulent document and also directed to take action in this regard under Sections 82 and 83 of the Registration Act.

2. It is the case of the petitioner that based on the complaint given by the third respondent alleging that the subject property was purchased by the petitioner by creating forgery and fabricating the document, the first respondent after conducting enquiry vide order dated 03.12.2021 in Na.Ka.No.5895/E2/2019 cancelled the document registered in favour of the petitioner and directed the second respondent not to register any document based on the said document and



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also directed to take action in this regard. Aggrieved by the same, the petitioner is before this Court.

3.The learned counsel for the petitioner submits that the third respondent has filed a suit in O.S.No.89 of 2020 in respect of the subject property and the same is pending before the District Court, Thoothukudi.

4. Normally, this Court would have set aside the order cancelling the registered document issued by the registering authorities as they have no power to cancel any registered document. However, having regard to the fact that the third respondent filed a suit with regard to the subject property in O.S.No.89 of 2020 for declaration and to cancel the documents executed in favour of the petitioner and also considering the nature of issue between the parties, this Court directs the parties to establish their rights in the pending civil suit before the competent civil Court. It is also made clear that the findings rendered by the District Registrar will not bind the civil Court to decide the matter independently on the basis of the valid evidence adduced by the parties. Further, the direction given in the impugned order to initiate action under Sections 82 and 83 of the Registration Act is alone set aside.



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N.SATHISH KUMAR, J.

Rmk

5.This writ petition is disposed of on the above terms. No costs.
Consequently, connected miscellaneous petition is closed.

27.09.2024

NCC : Yes/No

Index : Yes/No

Rmk

To

1.The District Registrar of Registration (Administration),
Tirunelveli.

2.The Sub Registrar,
Pudukottai Sub Registrar Office,
Thoothukudi, Thoothukudi District.

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