



W.P(MD)No.12858 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.12858 of 2023

and

W.M.P.(MD)Nos.10887 & 10888 of 2023

M.Pandiyan

... Petitioner

Vs.

1.The District Registrar (Administration),
Madurai South Registration District,
Madurai.

2.The Sub Registrar,
Office of the Registration,
Sindupatti, Madurai District.

3.The Sub Registrar,
Office of the Registration,
Chellampatti, Madurai District.

4.The Tahsildar,
Taluk Office, Peraiyur,
Madurai District.

(R4 is impleaded vide Court order dated 20.06.2023 in W.M.P.(MD)No.11547 of 2023 in W.P.(MD)No.12858 of 2023)

5.Vengitachalam

6.R.Muthukrishnan

7.C.Manokaran

... Respondents

(In view of the impleadment of R4, the rank of the respondents 5 to 7 are rearranged)



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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 passed by the 1st respondent in Na.Ka.No.2580/Aa2/2023, dated 21.04.2023 and quash the same as illegal and consequently, to direct the 1st respondent to cancel the sale deed No.1593 of 2008 on the file of the 3rd respondent.

For Petitioner : Mr.D.Senthil
For R1 to R4 : Mr.P.Subbaraj,
Special Government Pleader
For R5 : No Appearance

ORDER

Challenge has been made to the order of the 1st respondent dated 21.04.2023, directing the parties to approach the civil Court.

2.It is the case of the petitioner that his father had purchased the property in Ayan Punjai Re Survey No.171/1A situated at Poosalpuram Village and after his death, the petitioner and other legal heirs inherited the property in question and they are all in joint possession and enjoyment of the same. In such circumstances, the 4th respondent fraudulently obtained patta in respect of the property in question and executed a power deed in favour of the 5th respondent, who in turn, using the power deed, sold the property in question to



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the 6th respondent. Therefore, the petitioner made a complaint before the 1st respondent, seeking cancellation of the sale deed executed in favour of the 6th respondent. However, the 1st respondent, without conducting any enquiry, relegated the parties to the civil Court. Challenging the same, the petitioner has filed this Writ Petition.

3.At the outset, the order passed by the 1st respondent does not require any interference for the simple reason that the Registering Authority has no power to cancel any registered document. 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 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, unless the power is specifically vested with the registering authority to cancel any document and to go into the matter, there cannot be any direction to the authorities concerned to cancel the document. All these facts cannot be looked into by this Court and the same has to be agitated before the civil Court.



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5. With the above observations, this Writ Petition is dismissed. It is for the petitioner to work out his remedy before the competent civil Court in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2024

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

Yuva

To

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N.SATHISH KUMAR, J

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