



W.P.(MD)No.14970 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P.(MD)No.14970 of 2022
and
WMP(MD)Nos.10718 & 10719 of 2022**

P.T.Jeyaraman

... Petitioner

Vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai – 600 028.

2. The Deputy Inspector General of Registration,
St. Mark Street,
Near Sankar Colony,
Palyamkottai,
Tirunelveli District.

3. The District Registrar,
The District Registrar Office,
S.L.B. Southside Road,
Nagercoil,
Kanyakumari District.

4. The Joint Sub Registrar,
Joint Sub Registrar Office - 1,
Nagercoil,
Kanyakumari District.



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5. Mohanlal Babu

... Respondents

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 pertaining to the impugned order passed by the 3rd respondent vide order No.1821/A3/2022 dated 15.06.2022 and quash the same as illegal.

For Petitioner	: Mr.G.Anto Prince
For R1 to R4	: Mr.P.Subburaj Special Government Pleader
For R5	: Mr.S.Seenivasan

ORDER

Challenging the impugned order passed by the 3rd respondent dated 15.06.2022, this writ petition has been filed.

2. Heard both sides and perused the materials available on record.

3. It is the case of the petitioner that the petitioner has challenged the impugned order cancelling the gift deed dated 22.07.2021 executed by the private respondent in favour of the petitioner. A complaint has been given by the 5th respondent before the Registrar Office stating that the property originally



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belonged to the wife and son. After their death, the 5th respondent become the absolute owner of the property. He decided to sell the property, the petitioner has agreed to purchase the property for a total sum of Rs.80,00,000/-. Thereafter, he has also issued certain cheques. Subsequently, under the pretext of the Power of Attorney, the writ petitioner has got the gift deed executed in his favour. According to the 5th respondent, he has also suffering from mental ailment at the relevant point of time and he was not in a position to read the contents of the documents and accordingly, he signed the document. Hence, he gave an application before the District Registrar and based on his submissions, the enquiry conducted by the District Registrar and the document has been cancelled.

4. The District Registrar filed a counter in which it is stated that as per the Circular Letter No.41530/U1/2017 dated 31.07.2018, the Registering Authority had given Power to cancel the fabricated transaction and accordingly, the orders have been passed. No counter has been filed by the 5th respondent.

5. The learned counsel for the petitioner contended that the District Registrar has no power to cancel the document and the very circular letter can be recalled. Further, the allegations raised by the 5th respondent would not be gone



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into by the registering authorities. It was the allegation to be proved through evidence. Once a document has already been registered and the title has been issued, the title cannot be annulled by the District Registrar whereas the learned counsel for the 5th respondent would submit that the petitioner was misrepresented and a gift deed has been obtained. Originally, the 5th respondent decided to sell the property for valid consideration, however, a gift deed has been obtained.

6. Considering the submissions and nature of the allegation raised, this Court is of the view that the Registering Authority has no power to go into all these transactions. In *Satya Pal Anand vs. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767, the Hon'ble Supreme Court has held that power conferred on the Registrar by virtue of Section 68 cannot be invoked to cancel the registration of the document already registered. Sections 22-A and 22-B were inserted by Tamil Nadu Act 28 of 2022 and Act 41 of 2022 respectively to prevent registration of certain category of the documents. Thereafter, Section 77-A has been brought by Act 41 of 2022 to cancel the document registered in contravention of Sections 22-A and 22-B not beyond it. Now Section 77-A of the Registration Act, 1908 also is struck down by the Hon'ble Division Bench of this Court in W.P.No.10291 of 2022 batch as unconditional. Such being the position, this Court



is of the definite view that the title cannot be decided by the Registering Authorities. These facts have been discussed by this Court in **W.P.No.29706 of 2022 [G.Rajasulochana Vs. Inspector General of Registration and others]** and the Order in the writ petition is as follows:

“... 3. It is relevant to note that the object of the law of registration is to provide public notice of the transaction embodied therein. The execution of documents and its validity, the right created or extinguished is governed by the substantive law namely the Transfer of Property Act, 1882. The provisions contained in the Registration Act, 1908 relates to the factum of registration alone. The Hon'ble Supreme Court in the case of State of Rajasthan v. Basant Nahata, (2005) 12 SCC 77 has held as follows:

“The Act only strikes at the documents and not at the transactions. The whole aim of the Act is to govern documents and not the transactions embodied therein. Thereby only the notice of the public is drawn.”

4. The practice has been developed in the recent past in Tamil Nadu to entertain the applications given by the so-called affected parties to cancel all the documents under the pretext of either forgery or fraudulent transactions. The Inspector General of Registration, Government of Tamil Nadu has brought out Circular No.67 dated 03.11.2021 to deal with the fraudulent registrations through impersonation. The said circular is mainly based on the judgment of the Full Bench of the Andhra Pradesh High Court in the case of YanalaMalleshwari v. AnanthulaSayamma, reported in AIR 2007 AP 57. However, the three bench of Hon'ble Apex Court in the case of Satya Pal Anand v. State of M.P., reported in (2016) 10 SCC 767 has held that the power of the Registrar, under the Registration Act, is purely administrative and not quasi-judicial. The same is extracted



Registration Act, 1908 reads as follows:

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“68. Power of Registration to superintend and control Sub Registrars.

(1) every Sub Registrar perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub Registrar is situate.

(2) Every Registrar shall have authority to issue (Whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.”

6. The above provision makes it clear that the said section confers power upon the Registrar to supervise and control all the acts of the Sub-Registrar. Sub-Section 2 empowers the Registrar to issue any order consistent with the Act, which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him. Similarly, the Registrar shall also have power in respect of the rectification of any error regarding the book or the office in which any document has been registered. The above power empowering the Registrar to issue any order is a power of superintendence and supervision and not a power vested to cancel the registration of the document. Therefore, relying upon Section 68(2) of the Registration Act, 1908 and issuing such circular cannot be valid in the eye of law. Unless a specific power and express provision is made in the Act empowering the Registrar to cancel the document, such powers cannot be conferred by the Inspector General of Registration by taking aid of 68(2) of the Registration Act, 1908.”



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7. 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 cancel the document. All these facts cannot be looked into by this Court and the same has to be agitated before the civil Court.

8. Accordingly, this writ petition is allowed and the impugned order is set aside. It is for the 5th respondent to work out his remedy before the civil Court. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.08.2024

NCC : Yes/No
Index : Yes/No
P JL

To
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N.SATHISH KUMAR, J.

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