



W.P.(MD)No.15524 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.15524 of 2023
and W.M.P.(MD)No.13052 of 2023

A.Sundaradevi

... Petitioner

Vs.

1.The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The District Registrar (Administration),
Madurai.

3.The Sub Registrar,
Chekkanoorani,
Madurai District.

4.A.Kamuthai

5.C.Ganesan

6.K.Rakku

.... Respondents



W.P.(MD)No.15524 of 2023

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 13.04.2023 in Na.Ka.No.7963/Aa2/2023 passed by the second respondent and quash the same.

For Petitioner : Mr.J.Barathan
For Respondents : Mr.M.Siddharthan
Addl. Govt Pleader for R1 to R3
Mr.S.Ramsundarvijayraj for R4 to R6

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 13.04.2023 in Na.Ka.No.7963/Aa2/2023 passed by the second respondent and quash the same.

2. It is the case of the Writ Petitioner that the subject property belonged to the petitioner's father and he has settled the same in favour of the petitioner through two registered sale deeds dated 30.03.2011 and 15.04.2011. While so, the



W.P.(MD)No.15524 of 2023

respondents 4 to 6 are claiming that the mother of the petitioner had executed a registered sale deed in favour of one Veyilvanthammal and the fourth respondent in respect of some of the subject properties, and they had sold the same to the fifth respondent through registered sale deed dated 05.10.1998. The respondents 4 to 6 have given a petition seeking to cancel the settlement deeds executed in favour of the petitioner alleging that the petitioner's father had no title over the property and therefore, the settlement deeds executed by him is a fraudulent and forged one. Based on the said petition, the impugned order has been passed cancelling the documents executed in favour of the petitioner. Challenging the same, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner mainly would submit that a suit in O.S.No.308 of 2014 which was filed by the respondents 4 to 6 for declaration that the settlement deeds registered in favour of the petitioner are null and void, is pending. During the pendency of the suit, the respondents 4 to 6 have made an application to cancel the said settlement deeds. Based on the said the application, the impugned order has been passed. Therefore, the impugned order is liable to be set aside.



W.P.(MD)No.15524 of 2023

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the respondents 4 to 6 and perused the materials available on record.

5. Considering the facts and circumstances of the case, this Court is of the view that the impugned order cannot be sustained in the eye of law for several reasons. The first thing is that the Registering Authorities have no power to go into all the transactions. Once the document has been registered, the power of cancellation is not vested with the authorities. It has been declared by the Hon'ble Supreme Court in *Satya Pal Anand vs. State of Madhya Pradesh and others* reported in **(2016) 10 SCC 767**. The other thing is that when a similar substantial relief is pending before the civil Court and the civil Court has already been seized the matter, the authorities conducting parallel enquiry and cancelling the document without any foundational facts cannot be sustained. If such things are allowed and it will in fact encouraged upon, the doctrine of separation of power theory, the power enured to the civil Court and substantial right of the parties will be in a casual manner at the hands of the officers, who have no power to deal with this type of issues. Therefore, the impugned order is liable to be quashed.



W.P.(MD)No.15524 of 2023

6. Accordingly, the impugned order dated 13.04.2023 passed by the second respondent is quashed and the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.08.2024

NCC : Yes/No
Index : Yes/No
vsm

To

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W.P.(MD)No.15524 of 2023

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W.P.(MD)No.15524 of 2023

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