



W.A(MD)Nos.1307, 1500 and 1308 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)Nos.1307, 1500 and 1308 of 2024
and
C.M.P(MD)Nos.10188, 11667, 10191 and 11159 of 2024**

- 1.The Inspector General of Registration,
O/o.the Inspector General of Registration,
Chennai – 28.
 - 2.The Deputy Inspector General of Registration,
O/o.the Deputy Inspector General of Registration,
Tirunelveli – 627 002.
 - 3.The District Registrar,
Cheranmahadevi Registration District,
Tirunelveli District. ... Appellants/Respondents(In all W.As)
-vs-
- S.Kumaresan ... Respondent/Writ Petitioner(in all W.As)

COMMON PRAYER: Appeal filed under Clause 15 of Letters Patent,
against the order passed in W.P(MD)Nos.5211, 4188 and 9900 of 2024, ,
dated 26.06.2024.

(In all W.As)

For Appellants : Mr.P.Veera Kathiravan,
Additional Advocate General,
Assisted by,
Mr.P.Subbaraj,
Special Government Pleader



W.A(MD)Nos.1307, 1500 and 1308 of 2024

For R-1 : Mr.T.Lajapathi Roy, Senior Counsel for
Mr.T.Aswin Raja Simman

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COMMON JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

These appeals are by the Inspector General of Registration challenging the order of the writ Court made in W.P(MD)Nos.4188, 5144 and 9900 of 2024, allowing the said writ petitions quashing the charge memo, suspension order and the order appointing the Enquiry Officer initiated by the Department against the respondent.

2. The background facts which gave rise to the writ petitions are as follows:

The respondent who was working as a Sub-Registrar at Murappanadu Sub-Registrar's Office had registered an award passed by the Lok Adalat, Tirunelveli in O.S.No.102 of 2016 on the file of the Additional Sub-Court, Tirunelveli. In and by the said award, an agreement for partition of certain properties between the parties to the award was effected. The said award was passed on 20.08.2016 and the same was presented for registration on 29.11.2016. The said award was registered on 02.12.2016 as document No.2572/2016. This action of the respondent



W.A(MD)Nos.1307, 1500 and 1308 of 2024

in registering the said award was made subject matter of disciplinary proceedings. The respondent was accused of dereliction of duty and registering the document which dealt with Government property with malafide intention of causing loss to the Government. The respondent was also suspended pending enquiry. The charge sheet, suspension order and the order appointing the Enquiry Officer were challenged in the above writ petitions primarily on the ground that the document registered being a decree of a civil Court, there was no scope for the Sub-Registrar to conduct any enquiry regarding its validity or otherwise and therefore, the Sub-Registrar namely the respondent cannot be charged for dereliction of duty. The writ Court accepted the contentions of the respondent and allowed all the writ petitions leading to these writ appeals.

3. We have heard Mr.P.Veera Kathiravan, learned counsel for the appellants and Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the respondent.

4. Mr.Veera Kathiravan, learned Additional Advocate General would vehemently contend that Section 22(A) of the Registration Act, 1908 (in short 'the Act'), which was introduced with effect from 20.10.2016 imposes an obligation upon the Registrar to refuse registration, if the document deals with the property belonging to the State Government or a



W.A(MD)Nos.1307, 1500 and 1308 of 2024

local authority or for any religious institution to which the Tamil Nadu Hindu Religious and Endowments Act, 1959, would apply and the learned Additional Advocate General would submit that there is a direct violation of Section 22(A) by the respondent and therefore, the writ Court was not right in quashing the charge memo, suspension and the order appointing the Enquiry Officer.

5. The learned Additional Advocate General would also point out that the Sub-Registrar will have to make a preliminary enquiry regarding the right of the persons who are parties to the document before the registering the same. By registering the decree which deals with the property belonging to the Government an encumbrance is created over the property belonging to the State Government and encumbrance is created over the property belonging to the Government and this was done with a malafide intention to cause loss to the Government. The learned Additional Advocate General would also submit that quashing of a charge sheet is an extreme step and it shall not be resorted to particularly in proceedings under Article 226 of the Constitution of India.

6. Contending contra, Mr.T.Lajapathi Roy, learned Senior Counsel who appears for the respondent would submit that Section 22(A) of the Act, does not apply to the Court decrees. Drawing our attention to the



W.A(MD)Nos.1307, 1500 and 1308 of 2024

language of the provision which clearly excludes the Court decrees, the learned Senior Counsel would submit that there was no obligation on the part of the respondent to enquire into the title of the parties to a Court decree. He would also draw our attention to Section 34 of the Act which demonstrates an enquiry before registration by a registering officer and contend that an enquiry would be only with reference to matters provided under Section 34 of the Act and not beyond that. He would also invite our attention to Sub-Section 5 which excludes applicability of Sub-Section 1 to 4 of Section 34 to copies of decrees or orders.

7. As regards the contention of the learned Additional Advocate General regarding powers of this Court to interfere in the disciplinary proceedings, the learned Senior Counsel would submit that almost all the Courts which have taken the view that the Court will not under Article 226 of the Constitution of India interfere in disciplinary proceedings only if the disciplinary proceedings are within the jurisdiction of the disciplinary authority and there will always exceptions to the Rule that the Court will not interfere in disciplinary proceedings under Article 226 of the Constitution of India.

8. The learned Senior Counsel would submit that the if the disciplinary proceedings are without jurisdiction, this Court can always



W.A(MD)Nos.1307, 1500 and 1308 of 2024

interfere under Article 226 of the Constitution of India. The judgment relied on by the learned Additional Advocate General in **Secretary, Ministry of Defence and Others vs. Prabhash Chandra Mirdha** reported in **(2012) 11 SCC 565**, according to the learned Senior Counsel for the respondent itself makes a distinction inasmuch as it says ordinarily writ application does not lie against a charge sheet or show cause notice since they do not give rise to a cause of action.

9. We have considered the rival submissions.

10. Insofar as the submissions of the learned Additional Advocate General regarding obligation of Section 22(A) of the Act, we find that Section 22(A) does not apply to a decree of a Court. Section 22(A) reads as follows:

22-A. Refusal to register certain documents .— Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents,namely:—

(1) instrument relating to the transfer of immovable properties by way of sale, gift,mortgage, exchange or lease,—

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and



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W.A(MD)Nos.1307, 1500 and 1308 of 2024

Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or (iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995,

unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

Explanation I.—For the purpose of this section ‘local authority’ means,—

(i) any Municipal Corporation constituted under any law for the time being in force; or

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920 ; or

(iii) a Panchayat Union Council or a Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994 ; or



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W.A(MD)Nos.1307, 1500 and 1308 of 2024

(iv) any other Municipal Corporation, that may be constituted under any law for the time being in force.

Explanation II.—*For the purpose of this section ‘planning authority’ means the authority constituted under section 11 of, and includes the Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;*

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned: Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.

(3) instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed.”.

11. Unless the instruments that presented for registration falls within any one of the above categories mentioned in Section 22(A), the Registrar cannot refuse registration. Section 34 of the Registration Act which reads as follows:

“34. Enquiry before registration by registering officer.-(1) Subject to the provisions contained in this Part



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W.A(MD)Nos.1307, 1500 and 1308 of 2024

and in sections 41, 43, 45,69, 75, 77,88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23,24, 25 and 26:

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon-

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is



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W.A(MD)Nos.1307, 1500 and 1308 of 2024

subordinate.

(5) Nothing in this section applies to copies of decrees or orders.”

12. Recently a Division Bench of this Court to which one of us **(Justice R.SUBRAMANIAN)**, was a party has held that the Sub-Registrars have no jurisdiction to test the validity of a decree passed by the competent civil Court. An award of a lok adalat is equated to a decree of a civil Court by the Legal Services Authority of India. Therefore, the Sub-Registrar cannot launch upon an enquiry as to whether a decree is valid or not.

13. In view of the above, the legal position is clear to the effect that a Sub-Registrar before whom a decree or order of Court is produced for registration cannot refuse registration on the ground that the property dealt under which does not belong to the parties or any other ground. If that be the position of law, the very charge against the respondent falls to ground. There is no other charge made except the charge that he registered the award of the lok adalat without enquiring into the title of the parties to the document. Such enquiry is not contemplated under the Registration Act.



W.A(MD)Nos.1307, 1500 and 1308 of 2024

14. Adverting to the second contention of the learned Additional Advocate General regarding the maintainability of the writ petition, even in the judgment referred to supra which is relied on by the learned Additional Advocate General, the Hon'ble Supreme Court has made it clear that the Court will not ordinarily entertain a writ petition to quash the charge memo unless it has been issued by an authority not competent to initiate disciplinary proceedings. Paragraph No.10 of the said judgment reads as follows:

“10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. (Vide :[State of U.P. v. Brahm Datt Sharma](#), AIR 1987 SC 943;[Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh & Ors.](#), (1996) 1 SCC 327; [Ulagappa & Ors. v. Div. Commr., Mysore & Ors.](#), AIR 2000 SC 3603 (2); [Special Director & Anr. v. Mohd. Ghulam Ghouse & Anr.](#), AIR 2004 SC 1467; and [Union of India & Anr. v. Kunisetty Satyanarayana](#), AIR 2007 SC 906).”



W.A(MD)Nos.1307, 1500 and 1308 of 2024

15. The language used by the Hon'ble Supreme Court itself highlights the fact that the excise of jurisdiction under Article 226 of the Constitution of India is not completely barred.

16. The Hon'ble Supreme Court points out that **ordinarily** a writ petition will not lie.

17. In the case on hand, the respondent was charged with an particular delinquency. The legal position discussed by us above demonstrates that he was under no obligation to conduct an enquiry. The failure of which is treated as a delinquency. Therefore, the entire charge memo and the subsequent proceedings are completely without jurisdiction. The writ Court has rightly interfered and quashed the proceedings. We, therefore, see no merit in the writ appeals and they are accordingly dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

30.08.2024

NCC :Yes/No

Index :Yes/No

Internet:Yes

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W.A(MD)Nos.1307, 1500 and 1308 of 2024

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WEB COPY

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W.A(MD)Nos.1307, 1500 and 1308 of 2024

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