



W.P.(MD) No.16243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.16243 2023

and

W.M.P.(MD)No.13616 of 2023

S.Dharmaraj

...Petitioner

-vs-

1.The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Ramnad Zone, Vandikaran Salai, Ramnad District.

2.The District Registrar,
Office of the District Registrar,
Virudhunagar District.

3.The Sub - Registrar No-2,
Sub - Registration Office,
Virudhunagar District.

4.S.Prabakaran

5.S.Prem Ananth

6.S.Dhalabalan

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to impugned order passed by the 1st respondent



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by his proceedings Na.Ka.No.37/A1/2023 dated 24.04.2023 and to quash the same.

For Petitioner : Ms.P.Jessi Jeeva Priya
For R1 to R3 : Mr.M.Siddharthan
Additional Government Pleader
For R4 to R6 : Mr.Srinivasa Raghavan

ORDER

This writ petition has been filed challenging the order passed by the first respondent by proceedings in Na.Ka.No.37/A1/2023 dated 24.04.2023.

2.Heard the learned counsel appearing on either side and perused the materials placed on record.

3.The case of the petitioner is that the petitioner has purchased the property by way of a registered sale deed dated 14.02.2022 and he is in peaceful possession and enjoyment of the same from the date of purchase. In the meantime, the respondents 4 to 6 had given a complaint before the second respondent claiming right over the said property. However, the second respondent rejected the same. Challenging the



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same, the respondents 4 to 6 had preferred an appeal before the first respondent. The first respondent had allowed the appeal by an order dated 24.04.2023 and cancelled the registered documents with regard to the subject property as fraudulent documents.

4.At the outset the order passed by the first respondent cannot be sustained in the eye of law, since the Registering Authority has no power to cancel any document as the very Section 77(A) inserted under Registration Act to cancel the registered document, is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart, the issue of title and the fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court in view of the decisions made in ***Satya Pal Anand v. State of M.P.*** [2016 10 SCC 767] and ***G. Rajasulochana v Inspector General*** [W.P 29706 of 2024 dated 16.04.2024].

5.The order impugned in this writ petition clearly indicate that the first respondent had gone into the issue of title. The allegation with regard to forgery or fraudulent registration cannot be established before



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the Registering Authority. It has to be established by adducing necessary evidence before the competent civil Court.

6.In view of the above settled position of law, this writ petition is allowed and the order of the first respondent in proceedings in Na.Ka.No. 37/A1/2023 dated 24.04.2023 is set aside. The parties shall work out their remedy before the competent Civil Court. It is made clear that since all these years, the parties are prosecuting their grievance before the wrong forum, the period spent before the revenue authorities and before this Court shall be excluded for the purpose of filing a suit to establish their rights. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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N.SATHISH KUMAR, J.

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