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W.P(MD)No.16435 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.16435 of 2023

and

W.M.P.(MD)Nos.13737 and 13738 of 2023

V.T.Venkatesh

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhom High Road,
Pattinapackam, Chennai 600 028.

2.The District Registrar,
Office of the District Registrar,
Palani, Dindigul District.

3.The Sub Registrar Joint No.1,
Palani Sub Registrar Joint No.1 Office,
Palani, Dindigul District.

4.N.Meghala

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned proceedings issued by the second respondent in No. 1546/E1/2023 dated 23.05.2023 and quash the same as illegal and unconstitutional.



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For Petitioner : Mr.A.R.Kannappan
For R1 to R3 : Mr.M.Siddharthan
Additional Government Pleader
For R4 : Mr.G.Sridharan

ORDER

The petitioner has filed this writ petition challenging the enquiry notice issued by the second respondent in No.1546/E1/2023 dated 23.05.2023.

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

3.It is the case of the petitioner that the petitioner has purchased the subject property in the year 2011 and he is in possession and enjoyment of the same from the date of purchase. While so, the fourth respondent, who is the brother of the petitioner's vendor, claiming right over the subject property had given a complaint before the second respondent to cancel the registration of the documents with regard to the subject property. Based on the same, the second respondent issued a notice dated 23.05.2023 directing the petitioner to appear for enquiry. Challenging the same, this writ petition is filed.



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4.The learned counsel for the petitioner submitted that a civil suit has been filed in O.S.No.321 of 2023 on the file of the Additional District Court, Palani and the same is pending.

5.At the outset the enquiry notice issued 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]***.

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



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7.In view of the above settled position of law, this writ petition is allowed and the enquiry notice issued by the second respondent in Na.Ka.No. 1546/E1/2023 dated 23.05.2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
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To

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N.SATHISH KUMAR, J

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