



W.P.(MD) No.16455 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.16455 2023

and

W.M.P.(MD)No.13748 of 2023

R.Selvaraj

...Petitioner

-vs-

1.The Deputy Inspector General of Registration,
Ramanathapuram Region,
Ramanathapuram.

2.The District Registrar (No.1),
Virudhunagar Registration District,
Virudhunagar.

3.Mariyammal

4.Velthai

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records in pursuant to the impugned order passed by the 1st respondent in Na.Ka.No. 330/Aa1/2023 dated 31.05.2023 and quash the same.

For Petitioner
For R1 & R2

: Mr.M.Saravanakumar
: Mr.C.Satheesh
Government Advocate



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For R3
For R4

: Mr.M.Mohanasundaram
: Mr.Satheesh Kumar

ORDER

Challenge has been made to the order passed by the 1st respondent in Na.Ka.No.330/Aa1/2023 dated 31.05.2023 cancelling the document registered in favour of the petitioner.

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 subject properties are the family properties of the petitioner. The petitioner is in possession and enjoyment of the same by way of a settlement deed. When that being the position, the third respondent had lodged a complaint before the second respondent alleging that the documents stand in the name of the petitioner are fraudulent and sought to cancel the same. Based on the said complaint, the third respondent conducted enquiry and rejected the same. Challenging the same, the third respondent filed an appeal before the first respondent, who in turn had cancelled documents stand in the

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name of the petitioner and issued direction tot the registering authority not to entertain any further document with regard to the subject property.

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



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6. In view of the above settled position of law, the order passed by the first respondent cannot be sustained. Accordingly, this writ petition is allowed and the order of the first respondent dated 31.05.2023 in Na.Ka.330/Aa1/2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The Deputy Inspector General of Registration,
Ramanathapuram Region,
Ramanathapuram.
2. The District Registrar (No.1),
Virudhunagar Registration District,
Virudhunagar.



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N.SATHISH KUMAR, J.

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