



W.P.(MD) No.16533 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.16533 2023

and

W.M.P.(MD)Nos.13819 and 13820 of 2023

Saleth Mary

...Petitioner

-VS-

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

2.The Deputy Inspector General of Registration,
O/o. Deputy Inspector General of Registration,
Ramanathapuram Division,
Ramanathapuram District.

3.The District Registrar (Administration),
O/o. District Registrar,
Karaikudi, Sivagangai District.

4.The Sub Registrar,
Devakottai SRO,
Sivagangai District.

5.Buvaneshwari @ Selvi

...Respondents



W.P.(MD) No.16533 of 2023

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No. 3034/Aa1/ 2021 dated 11.07.2022 on the file of respondent No.3 in so far as the Sale Deed in Document No. 2046/2004 is concerned and the impugned order in Na.Ka.No.1681/Aa1/ 2023 dated 17.04.2023 on the file of the Respondent No.2 and to quash the same as illegal and consequently for a direction, directing the Respondent No.3 to remove the wrong entries in respect of Sale Deed in Document No. 2046/2004 in the Survey Nos. 17/1A, 17/1B, 17/5A, 17/5B, 17/5D, 27/3A1, 27/3B, 27/3C within the time period stipulated by this Court.

For Petitioner	: Mr.S.Rajasekar for M/s.Lajapathi Roy and Associates
For R1 to R4	: Mr.P.Subbaraj Special Government Pleader
For R5	: Mr.S.Ramesh Kumar

ORDER

Challenge has been made to the order of the third respondent dated 11.07.2022 in Na.Ka.No. 3034/Aa1/ 2021 and the second respondent dated 17.04.2023 in Na.Ka.No.1681/Aa1/ 2023.



W.P.(MD) No.16533 of 2023

2.The case of the petitioner is that the petitioner purchased the subject property by way of valid documents and the petitioner is in possession and enjoyment of the same from the date of purchase. While that being so, the fifth respondent had filed a petition before the third respondent stating that some of the documents of the petitioner are fraudulent documents. Based on the same, the third respondent, had cancelled the sale deed executed in favour of the petitioner. Challenging the same, the petitioner has filed an appeal before the second respondent. However, the second respondent had also dismissed the said appeal.

3.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]***.



W.P.(MD) No.16533 of 2023

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4.The orders impugned in this writ petition clearly indicate that the second and third respondents have 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.

5.In view of the above settled position of law, the orders passed by the authorities concerned cannot be sustained. Accordingly, this writ petition is allowed and the order cancelling the sale deed issued by the third respondent dated 11.07.2022 in Na.Ka.No. 3034/Aa1/ 2021 and the order of the second respondent rejecting the appeal of the petitioner dated 17.04.2023 in Na.Ka.No.1681/Aa1/ 2023 are 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
Internet : Yes / No
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N.SATHISH KUMAR, J.

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