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W.P(MD)No.16580 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.16580 of 2023

and

W.M.P.(MD)Nos.15083, 13858, 13860 and 13861 of 2023

1.K.Marimuthu

2.K.Murugan

... Petitioners

Vs.

1.The District Registrar (Administration),
Palayamkottai, Tirunelveli.

2.The Sub Registrar,
Kayathar, Tuticorin District.

3.S.Muthiah

4.A.Jebamalai Pitchai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No. 8803/A3/2022 dated 29.05.2023 and quash the same and consequently direct the respondents 1 and 2 to remove the entry regarding Doc.No.3228/2022 dated 10.08.2022 as fraudulent in the encumbrance register.

For Petitioner	: Mr.K.K.Udayakumar
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: Mr.K.Gurunathan



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For R4 : Mr.S.Packiyamuthu

ORDER

The petitioner has filed this writ petition challenging the order of the first respondent in Na.Ka.No.8803/A3/2022 dated 29.05.2023 and consequently to direct the respondents 1 and 2 to remove the entry regarding Doc.No. 3228/2022 dated 10.08.2022 as fraudulent in the encumbrance register.

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

3.The main contention of the petitioner is that the petitioner purchased the subject property from the fourth respondent and they are in possession and enjoyment of the same. The third respondent herein had filed a petition before the Revenue Divisional Officer to cancel the patta given in the name of the predecessors of the petitioner. Based on the same, the patta stood in the name of the petitioner's predecessors was cancelled. Thereafter, in a revision filed by the petitioner's predecessors, based on the statement given by one Meenakshinatha Pillai, the patta was restored in the name of the petitioner's predecessors. However, the third respondent bypassing the said order, had approached the first respondent to cancel the document with regard to the



subject property. Based on the same, the first respondent conducted enquiry and passed the impugned order dated 29.05.2023 cancelling the sale deed as fraudulent document.

4.The learned counsel for the petitioner would submit that the subject property was originally owned by one Paramasivam Pillai. He sold a portion of the property to one Gandhimathinatha Pillai, who in turn had sold the same to one Esakki Pandian. After the death of Esakki Pandian, his wife inherited the property. Thereafter, only Sudalaimuthu, the only legal heir of Muthammal had executed a power of attorney to one Madamsy, from whom the petitioner's vendor had purchased the subject property in the year 2004 and the petitioner purchased the same in the year 2022. According to him he has valid title. Hence, he seeks to allow the writ petition.

5.The learned counsel for the third respondent would submit that the revenue records have been wrongly obtained by the petitioner's predecessors. Based on the application of the third respondent, the Revenue Divisional Officer after conducting enquiry, had restored the patta that was originally stood in the name of the third respondent's uncle. In an appeal, the District Revenue Officer has confirmed the said order and relegated the parties to the civil Court. However, despite that orders, now the sale deed came to be



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registered in favour of the petitioner. Therefore, according to the third respondent, the act of the petitioner is nothing but a forgery and hence, he seeks to dismiss this writ petition.

6.The very allegation raised by the parties concerned clearly indicates that there is a title dispute between the parties. Though the revenue records are in the name of the third respondent, it is not the conclusive proof of title.

7.Further, since 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, such fraudulent transaction cannot be gone into by the registering 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]***.

8.The order impugned in this writ petition clearly indicates that the registering authorities 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.



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9. 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 passed by the first respondent in Na.Ka.No.8803/A3/2022 dated 29.05.2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, the connected miscellaneous petitions are closed.

02.09.2024

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

1. The District Registrar (Administration),
Palayamkottai, Tirunelveli.
2. The Sub Registrar,
Kayathar, Tuticorin District.



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N.SATHISH KUMAR, J

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