



W.P.(MD) No.16862 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.16862 2023

and

W.M.P.(MD)Nos.14107 and 14110 of 2023

R.Muthukrishnan

...Petitioner

-VS-

1.The District Registrar,
Office of the Registration,
Madurai (South), Madurai.

2.The Sub Registrar,
Office of the Sub Registrar,
Chellampatti,
Madurai District.

3.A.Ramachandran

...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 pertaining to the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.4172/Aa2/2023 dated 19.06.2023 and quash the same as illegal.

For Petitioner

: Mr.D.Senthil

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For R1 & R2

: Mr.M.Siddharthan

Additional Government Pleader

For R3

: Mr.M.Rajarajan

ORDER

Challenge has been made to the order passed by the first respondent vide his proceedings in Na.Ka.No.4172/Aa2/2023 dated 19.06.2023 directing the petitioner to appear for enquiry on 04.07.2023.

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 subject property by way of a registered document dated 20.09.2010. Thereafter, the petitioner sold the same to one Prithiviraj. The third respondent, who is no way connected to the subject property, claiming that he is a cultivating tenant in the above said property, had filed an application to cancel the document stand in the name of the said Prithiviraj. Based on the same, the first respondent had directed the parties to approach the civil Court. Challenging the same, the third respondent filed a review application before the first respondent. In that

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review application, the first respondent issued a notice to the petitioner to appear for enquiry.

4.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].

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, this writ petition is allowed and the enquiry notice issued by the first respondent in Na.Ka.No.4172/Aa2/2023 dated 19.06.2023 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
Internet : Yes / No
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To:

- 1.The District Registrar,
Office of the Registration,
Madurai (South),
Madurai.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Chellampatti,
Madurai District.



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N.SATHISH KUMAR, J.

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