



W.P.(MD) No.16910 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.16910 2023

and

W.M.P.(MD)No.14141 of 2023

M.K.Abdul Azeez

...Petitioner

-VS-

1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 028.

2.The District Registrar (Administration),
O/o. District Registrar,
Thanjavur.

3.The Sub Registrar,
Office of the Sub Registrar,
Boodhaloor,
Thanjavur-613 602.

4.B.Karunanidhi

...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 of the impugned order dated 08.06.2023 in Na.Ka.No.572/A4/2023 passed by the second respondent and quash the same.

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For Petitioner : Mr.M.V.Venkateshan
Senior Counsel
for Mr.S.Vellaichamy
For R1 to R3 : Mr.C.Satheesh
Government Advocate
For R4 : Mr.A.P.Muthupandian

ORDER

Challenge has been made to the order dated 08.06.2023 in Na.Ka.No.572/A4/2023 passed by the second respondent cancelling the documents stood in the name 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 petitioner is in possession and enjoyment of the subject property based on the settlement deed executed by his brother in his favour. While so, the fourth respondent had submitted a complaint to the second respondent claiming right over the subject property and seeking to cancel the documents registered with regard to the subject properties. Based on the same, the second respondent had held that the documents registered in the name of the



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petitioner with regard to the subject property were fraudulent and forged.

Challenging the same, the petitioner has filed this writ petition.

4.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 second 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 authorities concerned cannot be sustained. Accordingly, this writ petition is allowed and the order passed by the second respondent dated 08.06.2023 in Na.Ka.No.572/A4/2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, the connected miscellaneous petition is closed.

02.09.2024

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

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N.SATHISH KUMAR, J.

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