



WEB COPY



W.P(MD)No.18421 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.18421 of 2023

and

W.M.P.(MD)No.15370 of 2023

A.Sindha

... Petitioner

Vs.

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

2.The Sub Registrar,
Melapalayam Sub-Registrar office,
Tirunelveli District.

3.A.Subbiah

4.A.Arunachalam

... 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 passed by the 1st respondent in Na.Ka.No.663/A6/2023 dated 24.04.2023 and quash the same and consequently direct the respondents 1 and 2 to declare the registration of decree as fraudulent one and make endorsement to that effect in the encumbrance register in accordance with Circulars dated 25.04.2012, 09.04.2018 and 31.07.2018

For Petitioner

: Mr.K.K.Udayakumar

For R1 & R2

: Mr.C.Satheesh

Government Advocate



WEB COPY



W.P(MD)No.18421 of 2023

For R3 & R4 : Mr.K.P.Narayanakumar

ORDER

The petitioner has filed this writ petition challenging the order of the first respondent in Na.Ka.No.663/A6/2023 dated 24.04.2023 refusing to entertain the application of the petitioner and to direct the respondents 1 and 2 to declare the registration of decree as fraudulent one.

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

3.The contention of the petitioner is that the petitioner has purchased the subject property by way of the registered sale deed dated 14.09.2021. However, the fourth respondent claiming right over the subject property had filed a suit in O.S.No.395 of 2006 and obtained a decree in his favour. Thereafter, he registered the same in the encumbrance certificate. Therefore, the petitioner has made a representation before the first respondent to remove the said entry, however, the same was rejected by the first respondent directing the petitioner to approach the civil Court. Challenging the same, the petitioner has filed this writ petition.



W.P(MD)No.18421 of 2022

4.At the outset, the prayer sought by the petitioner before the authorities itself is misconceived. If at all the petitioner is aggrieved over the decree and judgment, the proper course to be adopted by him is to challenge the said judgment and decree by way of filing an appeal.

5.Further, 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].

6.In view of the above settled position of law, I do not find any reason to interfere with the order of the first respondent. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
ta



WEB COPY



W.P(MD)No.18421 of 2022

To

- 1.The District Registrar (Administration),
Palayamkottai, Tirunelveli.
- 2.The Sub Registrar,
Melapalayam Sub-Registrar office,
Tirunelveli District.



WEB COPY



W.P(MD)No.18421 of 2023

N.SATHISH KUMAR, J

ta

W.P(MD)No.18421 of 2023

02.09.2024