



W.P.(MD)No.20762 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20762 of 2022
and WMP(MD)Nos.15066, & 15067 of 2022

1.S.Mohamed Yasin

2.S.Abuthahir

... Petitioners

Vs.

1. The Deputy Inspector General of Registration,
Madurai.

2. The District Registrar (Administration),
Madurai South, Madurai District.

3. The Sub Registrar,
Peraiyur,
Madurai District.

4.Mohammed Abbas

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.8685/Aa4/2022 dated 29.07.2022 passed by the 1st respondent and quash the same.



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For Petitioner : Mr.J.Bharathan
For R1 to R3 : Mr.C.Satheesh
Government Advocate
For R4 : Mr.C.M.Arumugam

ORDER

Challenge has been made to the impugned order passed by the 1st respondent in Na.Ka.No.8685/Aa4/2022 dated 29.07.2022.

2. Heard both sides and perused the materials placed before this Court.

3. The case of the petitioner is that the writ petitioner originally purchased the property in question in the year 1995. The document has been originally registered in Para Salai, Kerala. Thereafter, the same has been once again re-registered before the concerned jurisdictional Sub Registrar on 09.02.2017. The 4th respondent has given a complaint before the District Registrar for cancelling the document on the ground that since the document has been already registered outside the jurisdiction of this Court and the same shall be deemed to be null and void.



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4. The District Registrar has rejected the complaint and held that since the amendment part under Section 28(b) of the Registration Act is introduced only on 29.03.1997, the said subject document has been registered in the year 1995 the amendment will not comply. On appeal, the Deputy Inspector General of Registration has passed an order on 19.07.2022 confirming the order of the District Registrar. However, on 29.07.2022 once again under the pretext of correcting the clerical mistakes and typographical mistakes, impugned orders have been passed directing the Sub Registrar not to entertain any transaction in respect of the subject property which was subject matter of document registered on 30.01.1995. Challenging the said impugned order, this writ petition has been filed.

5. It is relevant to note that though the registration of documents other than the State is now prohibited in view of Section 28(b) of the Registration Act introduced in the year 1997. Prior to the introduction of the said amendment, the practice was vague in the State of Tamilnadu while registering the documents outside the State. Be that as it may, after registration of the document outside the State, the documents has once again re-registered before the concerned jurisdictional Sub Registrar and necessary stamp duty has been paid on 09.02.2017. Therefore, when the law provides for re-registration which has



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already been done, now on the ground that the document was earlier registered outside the State, cannot be annulled. Be that as it may, in the impugned order dated 19.07.2022, the District Registrar passed an order confirming the order of the Sub Registrar. However, within 10 days, the order has been completely changed which itself indicated that the orders have been passed without non application of mind without following any procedure. The rights of the persons have taken very lightly without any procedure.

6. Therefore, this Court is of the view that the very power assumed by the Sub Registrars and the District Registrars under the circular order issued by the Inspector General of Registration itself is not valid in the eye of law.

7. In *Satya Pal Anand vs. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767, the Hon'ble Supreme Court has held that power conferred on the Registrar by virtue of Section 68 cannot be invoked to cancel the registration of the document already registered. That apart, this Court, in the case of *G.Rajasulochana Vs. Inspector General of Registration and others*, held that Section 68 deals with only the superintending power and control over the officers working under the Registration Department and not beyond that. That power



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cannot be enlarged to go into the very transaction. Unfortunately the Circular orders issued by the registering authorities has also been followed by this Court in several authorities and also this Court recorded it. The same is unfortunate since no substantiate provision of law deals with registration jurisdiction on earlier occasion before this Court. Be that as it may, now the law has been well settled and it is elaborately dealt in the *Rajasulochana case*. In such view of the matter, in the impugned order, striking the document on the complaint of some third party, without any foundational facts to be established, is liable to be dismissed.

8. In the result, this writ petition is allowed and the impugned order dated 29.07.2022 is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

20.08.2024

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

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To

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N.SATHISH KUMAR, J.

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