



W.P(MD)No.19713 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.19713 of 2023

and

W.M.P.(MD)No.16273 of 2023

1.R.Mariya Pushpam

2.A.Rosaiyan

... Petitioners

Vs.

1.The District Registrar,
District Registrar Office,
Marthandam.

2.A.Lailabai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned proceedings of the first respondent in Na.Ka.No.1862/J/2023 dated 09.06.2023, quash the same.

For Petitioners	: Mr.M.P.Senthil
For R1	: Mr.P.Subbaraj
	Special Government Pleader
For R2	: Mr.S.C.Herold Singh



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ORDER

The petitioners have filed this writ petition challenging the enquiry notice issued by the first respondent in Na.Ka.No.1862/J/2023 dated 09.06.2023.

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

3.It is the case of the petitioners that the subject property in Survey No.323/1 measuring an extent of 28 cents belongs to the father of the second petitioner and after his demise, the second petitioner inherited the same and executed a settlement deed in favour of the first petitioner. In the meanwhile, the brother of the second petitioner file a suit in O.S.No.786 of 1997 and obtained a decree in his favour. Thereafter, he made a petition before the first respondent to cancel the settlement deed executed by the second respondent in favour of the first respondent. Based on the said petition, the first respondent issued an enquiry notice directing the petitioner to appear for enquiry. Challenging the same, the petitioner has filed this writ petition.



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4.The learned counsel for the second respondent submitted that in the suit final decree proceedings were initiated and a portion of the property was also allotted in favour of the second respondent.

5.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]***.

6.The notice impugned in this writ petition clearly indicates 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



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Authority. It has to be established by adducing necessary evidence before the competent civil Court.

7.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. 1862/J/2023 dated 09.06.2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

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

The District Registrar,
District Registrar Office,
Marthandam.



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N.SATHISH KUMAR, J

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