



W.P.(MD)No.20674 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20674 of 2023

and

W.M.P.(MD)No.17104 of 2023

1.Arunkumar
2.Jonathan Victor
3.Hannah Victor

... Petitioners

Vs.

1.The District Registrar (Administration),
District Registrar Office Madurai (North),
Integrated Complex of Registration Department,
TNAU Nagar, Rajakambeeram, Y.Othakadai,
Madurai-625 107.

2.The Sub Registrar,
Sub Registrar Office,
Community Hall, Alanganallur,
Madurai District.

3.Sonaiammal
4.S.Poomari

... Respondents

(R4 is impleaded vide Court order dated 30.09.2024 made in W.M.P.(MD)No. 16456 of 2024 in W.P.(MD)No.20674 of 2023)

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 pertaining to the order No.5047/A3/2022, dated 05.05.2023 passed by the 1st respondent and quash the same.



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For Petitioners : Mr.R.Manoharan
For R1 & R2 : Mr.P.Subbaraj,
Special Government Pleader
For R3 & R4 : Mr.D.Malaichamy

ORDER

Challenge has been made to the order of the 1st respondent dated 05.05.2023, recording that the sale deed dated 18.02.1998 executed in favour of the 1st petitioner is fraudulent and no further transaction is to be entertained in that survey number.

2.According to the petitioners, the 3rd respondent sold the property in S.F.No.172/2, to an extent of 2 Acres 77 Cents situated at Kalvelipatti Village, Vadipatti Taluk, Madurai District to the 1st petitioner through a general power of attorney, which was registered as Document Registration No.4/1998, dated 18.02.1998. Thereafter, the 1st petitioner along with his father and uncle executed a sale deed in favour of the petitioners 2 and 3 in respect of S.F.Nos.170/3, 171/1, 172/1A, 172/1B and 172/2, which was registered on 10.11.2003. While being so, after the period of 25 years, the 3rd respondent lodged a complaint on 03.08.2022 before the 1st respondent, stating that the 1st petitioner and his father misled her and taking advantage of her lack of literacy,



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got the power of attorney in favour of the 1st petitioner and therefore, the sale deed dated 10.11.2003 is to be declared as fraudulent document. The 1st respondent, having conducted enquiry, has passed an order dated 05.05.2023, recording a finding that the property is not alienable and the sale should be treated as a fraudulent one. Challenging the same, the petitioner has filed this Writ Petition.

3.Heard the learned counsel on either side and perused the materials available on record.

4.On perusal of the impugned order, this Court is of the view that the 1st respondent recorded the finding without any foundational facts. Further, the very Section 77(A) inserted under Registration Act 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 fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court as per *Satya Pal Anand v. State of M.P.*[2016 10 SCC 767] and *G. Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024*.



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5.At this stage, it is stated by the learned counsel for the respondents 3 and 4 that the 4th respondent has purchased the property in question subsequently, without knowing these proceedings and a suit in O.S.No.1764 of 2023 is pending on the file of the III Additional Sub Court, Madurai.

6.In such view of the matter, the impugned order passed by the 1st respondent is quashed and this Writ Petition is allowed. It is for the parties to agitate their rights in the pending civil Suit. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

(3/3)

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

Yuva

To

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2. The Sub Registrar,
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N.SATHISH KUMAR, J.

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