



W.P.(MD)No.22438 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.22438 of 2022
and
W.M.P.(MD)No.16639 of 2022

C.Alagiri Balan

... Petitioner

versus

1. The District Registrar (Administration),
Pudukkottai District,
Pudukkottai.

2. The Sub Registrar,
O/o. the Sub Registrar,
Kulathur,
Pudukkottai District.

3. K.Alagu Murugan

.... 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 relating to the impugned order made by the 1st respondent in ந.க.எண்.1352/அ2/2022 dated 06.09.2022 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R1 and R2 : Mr.M.Siddharthan
Additional Government Pleader



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For R3 : Mr.P.Ganapathi Subramanian

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ORDER

This writ petition is filed seeking for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 06.09.2022 passed by the 1st respondent and quash the same as illegal.

2. The case of the petitioner is that he is the son of one Chinnaya Balandar, born through his third wife Jeeva. The subject property is the ancestral property. His brother, namely, Moovendran, has executed a settlement deed in his favour on 21.04.2021. Due to financial crisis, he decided to sell the property and he has also executed a sale deed dated 06.11.2021 in favour of one Prathap. While so, the 3rd respondent, who is none other than the son of one Saraswathi, gave a complaint before the first respondent. According to the complainant/3rd respondent, his grandmother Pragathambal, who is the first wife of Chinnaya Balandar, had executed a registered settlement deed in favour of his mother Saraswathi and she was in possession and enjoyment of the subject property and he himself and his three sisters are the legal heirs of the said Saraswathi. But, the petitioner's brother, by giving a false statement that the said Saraswathi has no issues, has executed a settlement deed in favour of the



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petitioner. Based on the settlement deed, the petitioner has now sold the subject property to one Prathap. Therefore, the 3rd respondent sought for cancellation of the settlement deed executed in favour of the petitioner and also the sale deed executed in favour of one Prathap. Based on the said complaint, the first respondent passed the impugned order dated 06.09.2022, directing the second respondent not to register any document based on the said documents and also ordered for enquiry under Sections 82 and 83 of the Registration Act. Challenging the same, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the 3rd respondent.

4. The Registering Authority has no power to cancel any registered documents, as per the law laid down by the Hon'ble Supreme Court in ***Satya Pal Anand vs. State of Madhya Pradesh and others*** reported in (2016) 10 SCC 767 and also by this Court in ***G.Rajasulochana Vs. Inspector General of Registration and others*** (W.P.No.29706 of 2022). However, the first respondent has passed the impugned proceedings dated 06.09.2022, ordering



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for enquiry under Sections 82 and 83 of the Registration Act as against the petitioner and his brother.

5. When the issue with regard to the legal heirship of the said Saraswathi is in dispute, the first respondent, without any evidence and merely on the basis of the allegations, cannot pass an order for enquiry under Sections 82 and 83 of the Registration Act. Therefore, the impugned proceedings dated 06.09.2022 is liable to be set aside insofar as the direction to cause enquiry under Section 82 and 83 of the Registration Act is concerned. The parties shall workout their remedy before the concerned Civil Court.

6. Accordingly, this writ petition is allowed and the impugned proceedings dated 06.09.2022 is set aside insofar as the direction to cause enquiry under Section 82 and 83 of the Registration Act is concerned. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No.
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N.SATHISH KUMAR, J.

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