



W.P.(MD) No.23399 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.23399 of 2023
and
W.M.P.(MD)No.19604 of 2023

Kremmer Sandegren Foundation Pattukkottai,
Represented by its President,
Abrahamdoss,
No.16, St. John Church Shopping Complex,
Rockins Road, Trichirapalli.

...Petitioner

-vs-

1.The District Registrar (Admin),
Madurai South, Madurai.

2.Kamaleshwaran

3.M/s. Viswas Promoters,
Represented by its Director (Admin),
Dr. No.84, Thirupparankundram Road,
Aandalpuram, Madurai.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in Na.Ka. No.3163/A2/2023 dated 04.09.2023 regarding cancellation of mortgage deed dated 04.01.2022 in document No.760/2022 under Section 77-A of Registration Act and Section 82 and 83 of Registration Act to register

1/5



W.P.(MD) No.23399 of 2023

F.I.R. as against the writ petitioner and to quash the same as illegal and unconstitutional.

For Petitioner : Ms.S.Vijayashanthi
For R1 : Mr.M.Siddharthan
Additional Government Pleader
For R2 : Mr.A.Raja
For R3 : Mr.S.Parthasarathy

ORDER

Challenging the cancellation of the mortgage deed executed by the petitioner, this writ petition has been filed.

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

3.The case of the petitioner is that the petitioner is the registered Society. Due to financial crisis, the petitioner society had mortgaged the property of the society with the third respondent. While so, the second respondent made a complaint before the first respondent to cancel the said mortgage deed dated 04.01.2022. The first respondent after conducting enquiry, without considering the factual aspects had



W.P.(MD) No.23399 of 2023

cancelled the mortgage deed executed by the petitioner Society as forged one. Hence, this writ petition has been filed.

4.At the outset, the order issued by the first respondent is not valid in the eye of law, since 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].

5.The validity of the documents cannot be gone into by the registering authorities. It has to be proved by adducing evidence before the competent civil Court.

6.In view of the above settled position of law, the order issued by the first respondent cannot be sustained. Accordingly, this writ petition



W.P.(MD) No.23399 of 2023

is allowed and the order passed by the first respondent in Na.Ka.No. 3163/A2/2023 dated 04.09.2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs.

23.09.2024

NCC : Yes / No
Index : Yes / No
ta

To:

The District Registrar (Admin),
Madurai South, Madurai.



WEB COPY



W.P.(MD) No.23399 of 2023

N.SATHISH KUMAR, J.

ta

W.P.(MD) No.23399 of 2023

23.09.2024