



WP(MD). No.27381 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05/09/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.27381 of 2023
and WMP(MD) No.23526 of 2023**

Vijayaraj

... Petitioner

Vs

1. The Inspector of Registrars,
Inspector of Registration Office,
100, Santhome High Road,
Chennai 600028..

2. The District Registrar (Admn),
District Registrar Office,
Palayamkottai,
Kokirakulam,
Tirunelveli - 9..

3. The Sub Registrar,
Sub Registrar Office,
Palayamkottai
Registration District,
Kazhukumalai,
Tirunelveli District..

4. Ramkumar,

5. Ramesh Babu

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 2nd respondent dated 04.10.2023 vide Ref.No.Na.Ka.No.3852/A3/2023 and quash the same as illegal.

For Petitioner : Mr.P.Thiyagarajan,

For Respondents : Mr.M.Siddharthan for R1 to R3

Additional Government Pleader

Mr.K.Rajeswaran for R4

No appearance for R5

ORDER

This writ petition has been filed challenging the impugned order of the 2nd respondent dated 04.10.2023.

2. The case of the petitioner is that a complaint has been given by the 4th respondent alleging that the 5th respondent sold the undivided share with specific boundaries to the petitioner herein. Therefore, according to him, it was a fraudulent registration and document and therefore, he gave a complaint. Based on that allegation, the same has been cancelled by the authorities.



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3. The brief facts are that 77 cents of land were allotted to the 5th respondent in OS No.72/1986 Sub Court, Tenkasi. The 5th respondent has sold ½ share in favour of the petitioner, however, with boundaries. The same has been sought to be cancelled. Accordingly, it was cancelled by the authorities on the ground that it is a fraudulent registration.

4. Heard the learned counsel for the petitioner. Though the respondent No.5 was served and his name is printed, none appeared for him. I have considered the rival submissions and perused the materials available on record.

5. At the outset, the very order passed by the authorities clearly indicate how the registering authorities abused its power and gone into rights created in favour of the parties, without even understanding the nuances of law. In law, there is no bar for sale of undivided property in the joint family property. Section 44 of the Transfer of Property Act permit the co-sharer to sell the undivided share. The only restriction is that the purchaser cannot seek for specific portion. Therefore, when



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being the position of law, merely because the boundaries have been shown in the document, it cannot be held such document is fraudulently registered. Hence, such order cannot be sustained in the eye of law. However, once the document is registered, the registration is complete and the authorities have no power to cancel the document.

6. The Apex Court had repeatedly held that the District Registrar or the Inspector General of Registration has no right whatsoever to go into the disputed title in *Satya Pal Anand v. State of M.P.* [2016 10 SCC 767] and this Court in *G. Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024*. Therefore, in the case on hand, entertaining of the complaint by any party and cancelling the document are per se illegal.

7. Accordingly, the writ petition is allowed and the impugned order is quashed. No costs. Consequently connected Miscellaneous Petition is closed.

05.09.2024

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