

W.P.(MD) No.27601 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

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CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.27601 of 2023

and

W.M.P.(MD)No.23701 and 23702 of 2023

1.Ramkumar

2.R.Rathidevi

...Petitioners

-VS-

1.The Deputy Inspector General of Registration,
Tirunelveli Range, Tirunelveli.

2.The District Registrar,
Tirunelveli, Tirunelveli District.

3.The Sub Registrar,
Udankudi Sub Registrar Office,
Udankudi, Thoothukudi District.

4.K.Sudalaimuthu

5.Abraham Rajasekar

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the second respondent in Moo.Mu.No.1506/Aa4/2022 dated 14.11.2022 and quash the same and consequently, directing the second and third respondents to remove the entries made in the encumbrance in pursuant to the impugned



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order dated 14.11.2022 with respect to the properties comprised in Survey No.251/1A and 251/1B, Udangudi Village, Thoothukudi District.

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For Petitioners	: Mr.M.P.Senthil
For R1 to R3	: Mr.C.Satheesh Government Advocate
For R4	: No Appearance
For R5	: Mr.V.Rajiv Rufus

ORDER

This writ petition has been filed challenging the order of the second respondent in Moo.Mu.No.1506/Aa4/2022 dated 14.11.2022 and consequently to direct the second and third respondents to remove the entries made in the encumbrance in pursuant to the impugned order dated 14.11.2022 with respect to the properties in question.

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

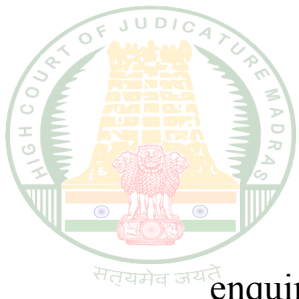
3.The case of the petitioner is that the property in question was purchased by the petitioner along with one Asirvadham. The predecessors-in-title were in possession and enjoyment of the subject property. Now the property stands in the name of the petitioner's wife.



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While the things stood thus, the fourth respondent, who is no way connected to the subject property had lodged a complaint before the second respondent stating that the property stands in the name of the petitioner's wife is fraudulent. Based on the said complaint, the second respondent had cancelled the registered settlement deeds in favour of the petitioner's wife. Challenging the same the petitioner's wife filed an appeal before the first respondent. However, the same was not processed. Hence, the petitioner has filed this writ petition.

4.The property originally belonged to the father of the petitioner. However, the fourth respondent had dealt with the property after the death of his father. This Court is of the view that mere registration of a document by person as his own property and executing a document will not constitute forgery. This aspect has been elaborately dealt by the Honourable Supreme Court in *Mohd. Ibrahim v. State of Bihar*, reported in (2009) 8 SCC 751 and has that held unless the document in question comes within the category of a false document as defined in Section 464 of the IPC, there cannot be a case of forgery and the same cannot be cancelled. In the present case, the private respondent has registered the documents based on the sale deed executed in his favour.



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5. Further the registering authorities have no power to conduct enquiry with regard to the registered documents, since 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 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. In view of the above, this writ petition is allowed and the order passed by the second respondent in Moo.Mu.No.1506/Aa4/2022 dated 14.11.2022 is set aside. It is open to the petitioner to establish his right in an appropriate manner before the competent Civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

23.09.2024

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

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