



W.P(MD).Nos.29994 to 30000 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P(MD).Nos.29994, 29995, 29996, 29997,
29998, 29999 and 30000 of 2023
and**

**W.M.P(MD).Nos.25853, 25854, 25858, 25861, 25862, 25864, 25857, 25860,
25863, 25865, 25856, 25859, 25866 and 25867 of 2022**

W.P(MD).No.25853 of 2023

Sathish Kumar

... Petitioner

Vs.,

1.The Inspector General of Registration,
O/o.Inspector General of Registration,
No.100, Santhom Highway,
Chennai 600 028.

2.The District Registrar (Administration),
O/o.District Registrar,
Ramanathapuram,
Ramanathapuram District.

3.The Sub Registrar,
Joint II Sub Registrar Office,
Ramanathapuram,
Ramanathapuram District.

4.Rajkumar
5.Kannan

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed under Section 77A of the Registration Act, in Na.Ka.No.5975/ஆ1/2022 dated 19.09.2023 on the file of the second respondent to quash the same as unconstitutional.

For Petitioner : Mr.D.Balamuruga Pandi
For Respondents : Mr.P.Subbaraj (for R1 to R3)
Special Government Pleader
No appearance (for R4)
Mr.N.Anandakumar (for R5)

COMMON ORDER

These writ petitions have been filed challenging the order dated 19.09.2023 in Na.Ka.No.5975/ஆ1/2022 passed by the second respondent cancelling the documents registered in favour of the petitioners in the year 2022 in Document Nos.3407, 3408 of 2022, 3235 of 2022, 3228 of 2022, 3234 of 2022, 3338 of 2022, 3337 of 2022 and 202 of 2022 respectively.

2. It is the case of the writ petitioners that the subject property originally belongs to the fourth respondent/Rajkumar, who mortgaged the title deeds to the Karur Vysya Bank Limited, Ramanathapuram, for improving his business.



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Subsequently, the fourth respondent furnished the above said sale deed documents for creating equitable mortgage in favour of the bank. Accordingly, the title deeds and other documents were deposited and created mortgage in favour of the bank. Thereafter, the bank sanctioned loan amount to the fourth respondent. Since the fourth respondent was unable to repay the said loan amount, the petitioners intended to pay the said amount and subsequently, the same has been deposited to the bank and redeemed the properties. Thereafter, the said properties were purchased by the petitioners from the fourth respondent and enjoying the same.

3. Under these circumstances, a complaint has been given by the fifth respondent/Kannan to cancel the aforesaid sale deeds on the ground that the sale has been made by the fourth respondent in favour of the petitioners suppressing the interim order passed in I.A.No.3 of 2021 in O.S.No.314 of 2021 under Order 38 Rule 5 on 29.04.2022 and the same was communicated to the District Registrar. Based on the complaint, enquiry was conducted and impugned order came to be passed. Challenging the same, these writ petitions have been filed.

4. According to the petitioners, the very attachment order has been communicated to the Registering authority only on 29.11.2022, but the sale deed



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executed much prior to the date of communication. Further, the sale is void only against the claims enforceable under the attachment, not entirety. Therefore, cancelling the entire sale deeds cannot be sustained in the eye of law.

5. The learned counsel for the fifth respondent would submit that the suit has been filed for recovery of money for a sum of Rs.18,00,000/- and interim order of attachment has been passed in I.A.No.3 of 2021. The fifth respondent given a complaint before the District Registrar on 21.11.2022 and communicated the order of attachment. The fourth respondent being the party of the suit knowing very well has sold the property. Hence, the impugned order passed by the second respondent does not require any interference.

6. Heard both sides and perused the materials available on record.

7. At the outset, this Court is of the view that though Section 22B introduced by way of amendment prohibits registration of document, when the subject property has been attached, now, the power to cancel such document is not available with the Registering Authority. Though Section 77A has been brought by way of amendment to cancel the document registered in contravention of



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Section 22B, now, Section 77A is also struck down by the Hon'ble Division Bench of this Court in W.P.No.10291 of 2022 batch as unconditional.

8. Be that as it may, even Section 64 of the Code of Civil Procedure it can be seen that the private alienation shall be void only as against the claims enforceable under the attachment. In such view of the matter, the entire sale deeds cannot be cancelled by the authority citing the attachment. Accordingly, these Writ Petitions are allowed and the impugned order passed by the second respondent dated 19.09.2023 in Na.Ka.No.5975/ஆ1/2022 is hereby quashed. It is made clear that in the even of fifth respondent succeeding the suit, the sale is always subject to the outcome of the civil suit. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

02.09.2024

NCC : Yes/No
Index : Yes/No
Rmk



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N.SATHISH KUMAR, J.

Rmk

To

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