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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4366 of 2025
and W.M.P.Nos.4878 & 4879 of 2025

A.Poorani

... Petitioner

Vs.

1.The District Registrar,
The District Registrar Office,
Tindivanam.

2.The Sub Registrar,
The Office of Sub Registrar,
Vanur, Villupuram 605 109.

3.M.R.Singhwi

4.P.Thamodharan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records leading to pass the impugned proceedings dated 23.05.2022 passed by the 1st respondent in Na.Ka.No.1608/Aa1/ 2022 and quash the same.



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For Petitioner : Mr.C.Jagadish
For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 and R2
Mr.D.Senthilkumar for R4

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 23.05.2022, wherein, the 1st respondent has directed nearly eight documents to be not valid and illegal and further directed the Sub Registrar viz., the 2nd respondent to carryout the necessary entries in the Encumbrance Certificate.

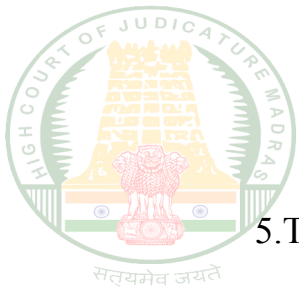
2.Heard Mr.C.Jagadish, learned counsel appearing on behalf of the petitioner, Mr.B.Vijay, learned Additional Government Pleader appearing on behalf of respondents 1& 2 and Mr.D.Senthilkumar, learned counsel appearing on behalf of the 4th respondent.

3.The grievance of the petitioner is that the petitioner had purchased the subject property through a registered Sale Deed dated 15.07.2015 registered as Document No.3998 of 2015. A representation seems to have been made by the 3rd



respondent before the 1st respondent to the effect that a suit was filed in O.S.No.233 of 2018 before the Principal Sub Court, Tindivanam and based on the same, all the fabricated documents numbering nine have to be declared as illegal and necessary entries must be made in the records. The same was acted upon and the impugned proceedings were issued by the 1st respondent dated 23.05.2022 which has been put to challenge in the present writ petition.

4.The learned counsel appearing on behalf of the 4th respondent submitted that there are two sets of documents that were created/fabricated by the parties. One set of documents were created by the persons belonging to P.S.Arumugam and other set of documents were created by persons belonging to the petitioner's husband viz., Azhagappan. All these documents were created without any right or title over the property to the prejudice of the 3rd and 4th respondents. The learned counsel further submitted that the petitioner has approached this Court questioning the entire order and whereas, the right of the petitioner is only confined to the property that has been conveyed in favour of the petitioner through Sale Deed dated 15.07.2015. Therefore, it was contended that the petitioner cannot get the entire order set aside which deals with various other documents and property.



5.The learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents submitted that the 1st respondent has acted upon the suit that was filed in O.S.No.233 of 2018 by Rajeshwari and others seeking for the relief of declaration and permanent injunction and based on the same, nearly nine documents that were created was held to be illegal.

6.In the considered view of this Court, the only power that was available to the District Registrar was under Section 77A of the Registration Act. The said provision has been declared to be unconstitutional by the Division Bench of this Court in *M.Kathirvel vs. The Inspector General of Registration, Department of Registration and others* reported in **2024 4 CTC 769**. In view of the same, the District Registrar cannot declare any document to be illegal/not valid or cancel those documents either in exercise of powers under Section 68(2) and/or 77A of the Registration Act. If at all any decree has been passed by the competent Civil Court declaring certain documents to be null and void or declaring the title of the plaintiff in the property, that decree can be registered as a document and that will automatically reverse the earlier documents created.

7.In the case in hand, the suit filed in O.S.No.233 of 2018 came to be



dismissed for default on 08.12.2021 and there is nothing to show that the suit has been revived. If assuming that the suit was decreed, atleast it will give some right for the successful party to approach the Sub Registrar and seek for the registration of the decree passed in the suit. When that has not happened in this case, it is not known as to how the 1st respondent took note of the suit filed and straight away declared all the documents as invalid.

8.The learned counsel appearing on behalf of the 4th respondent was repeatedly making his submission touching upon the merits of the case and as to how the parties had committed fraud and created fabricated documents. This submission made by the learned counsel for the 4th respondent is not material to the issue in hand since this Court is only testing the power that has been conferred to the District Registrar under the Registration Act. Hence, the 4th respondent may be having a genuine case on merits. That by itself cannot confer a power or jurisdiction on the 1st respondent to declare all the Sale Deeds as invalid and direct necessary entries to be made in the Encumbrance Register by the Sub Registrar.

9.In the light of the above discussion, this Court holds that the 1st respondent did not have any right to issue the proceedings dated 23.05.2022 in the light of the



judgment of the Division Bench in *M.Kathirvel vs. The Inspector General of Registration, Department of Registration and others* reported in 2024 4 CTC 769.

Therefore, this proceedings dated 23.05.2022 issued by the 1st respondent is non est in the eye of law. If the impugned order is so declared, there is no use in keeping the impugned order in subsistence for the others and setting it aside only insofar as the petitioner is concerned. Once the order is declared as non est, the entire order has to go since such an order is considered to be non existent in the eye of law.

10.It is left open to the private respondents to agitate their right before the competent Civil Court and the present order passed in the writ petition will not in any way have a bearing. That apart, if the private respondents want to stop any further alienation, it will be left open to them to seek for such a relief in the suit.



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11. In the result, this writ petition stands allowed in the above terms. No Costs. Consequently, connected miscellaneous petitions are closed.

12.03.2025

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

1. The District Registrar,
The District Registrar Office,
Tindivanam.
2. The Sub Registrar,
The Office of Sub Registrar,
Vanur, Villupuram 605 109.



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N. ANAND VENKATESH, J.

SSR

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