



W.P.No.11680 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11680 of 2025

D.Senthilnathan

...Petitioner

-Vs-

1.The Inspector Of Police
District Crime Branch, Coimbatore (Crime
No.24/2023)

2.The District Registrar
Coimbatore (north), Syrian Church Road,
Puthiyavan Nagar, Sukrawar Pettai,
R.S.Puram, Coimbatore 641001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, pleaded to issue writ of Mandamus, directing the 1st respondent to file the charge sheet in Cr.No.24 of 2023 as expeditiously as possible within a period as prescribed by this Hon'ble Court and to direct the 2nd respondent to record the Document No. 13245/2023 dated 22.09.2025 at the SRO, Annur as a rank forgery in the relevant register maintained by them.

For Petitioner
For Respondents

: M/s.N.U.Pressanna
: Mr.A.Gopinath for R1
Government Advocate (Crl. Side)
Mr.R.Karthik Jagannath for R2
Government Advocate



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ORDER

This Writ petition has been filed seeking a direction to the 1st respondent to file a final report in Crime No. 24 of 2023 and also sought for direction directing the 2nd respondent to record the Document No. 13245/2023 dated 22.09.2025 as fraudulent one and breach of records of the registration.

2. The petitioner is the absolute owner of the property measuring an extent of 1.52 acres/ 32 percent of undivided share in the land, comprised in Survey Nos. 460/1A, 460/Aab1, 460/1C, 459/1a, 459/2B1 and 459/3A at Karegoundampalayam village, Annur Taluk. It is stated in the affidavit that the petitioner handed over the title document of the above said land to his friend one Venkatesh for financial assistance. Further, he also assured that he will return the document within a period of three months. Believing his words, the petitioner handed over the original document to him. However, the said Venkatesh failed to return the original document and as such, the petitioner lodged a complaint. He also verified the encumbrance certificate of the property and it came to



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light that there was a fraudulent transaction committed by the said Venkatesh with reference to the petitioner's property by impersonating his identity with malafide intention to grab the property executed sale deed dated 30.09.2023 in favour of third party vide Document No.13245/2023. Thereafter, the petitioner submitted a representation before the 2nd respondent on 30.12.2024 to declare the said document as a fraudulent one. Meanwhile, the petitioner also lodged a complaint and the same has been registered in Crime No.24/2023 on the file of 1st respondent for the offences under Sections 419, 420, 465, 468, 471 and 120B of IPC as against the accused persons. The petitioner also filed a petition before this Court in Crl.O.P.No.14963 of 2024 seeking direction for transfer of investigation in Crime No.24/2023 from District Crime Branch to CBCID. Since the 1st respondent did not complete the investigation and file any final report, this Court by order dated 07.08.2024 directed the first respondent to complete the investigation and file a final report within a period of 30 days from the date of receipt of copy of that order. However, so far, the first respondent did not file any final report before the concerned Court.



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3. Further, the second respondent, on receipt of the representation submitted by the petitioner, did not take any steps to declare that the sale deed registered vide document No.13245/2023 dated 30.09.2023 as a fraudulent one, instead by communication dated 18-03-2025, the second respondent informed the petitioner that the provision under Section 77-A of the Registration Act has been declared as unconstitutional and as such the second respondent has no power to cancel the fraudulent document and also will not able to record the said document as a fraudulent one.

4. On perusal of the sale deed dated 30.09.2023, the petitioner was impersonated and got the sale deed registered in respect of the petitioner's 32% of share out of total extent of the subject property. The accused fabricated the Aadhar card as well as the PAN card of the petitioner and used for registration of a sale deed in favour of one Jaya Chandran. The Sub-Registrar, who registered the sale deed, without even verifying these documents, conspired with the other accused persons registered the sale deed in favour of one Jayachandran and thereby, created an encumbrance over the subject property.



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5. The draft final report was also produced before this Court. It was further revealed that the purchaser is arrayed as Accused No.13 and the Sub-Registrar, who registered the sale deed is arrayed as Accused No.15. Further, it is clear that the petitioner was impersonated by the 2nd accused. His Aadhar card and PAN card were fabricated for the purpose of registration.

6. It is relevant to extract the provision under Section 68 of Registration Act, 1908.

68. Power of Registrar to superintend and control Sub

Registrars

(1) every Sub Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub Registrar is situate.

(2) Every Registrar shall have authority to issue (Whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.



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WEB COPY 7. Therefore, the 2nd respondent has the power to supervise the registering authority to the extent that whether the registering authority performs duties in accordance with the law or not. Therefore, the second respondent shall have authority to issue any order consistent with the Act to any registering authority in respect of any act or omission on the part of the registering authority or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

8. Therefore, this provision empowers the second respondent to issue direction to the Registering Authority in respect of their ministerial functions and duties. Though the Division Bench of this Court declared the provision under Section 77A of the Registration Act as unconstitutional, the 2nd Respondent has the power to declare the fraudulent document as a fraudulent one and it can be a record in the Book 1 of records in the Registration.



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9. In this regard, it is relevant to rely upon the judgment of the

Hon'ble Supreme Court in the case of ***Asset Reconstruction Company (India) Limited Vs S.P.Velayutham and Others*** reported in (2022) 8 SCC 210. The Hon'ble Supreme Court of India dealt with the issue for declaring the fraudulent document as nulls and void. The relevant portion of the order is extracted hereunder:-

57 . In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the Registering Authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

58. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the Registering Authority to stick to the mandate of law, the Court merely cancels the



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act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the Registering Authority performed his statutory duties in the manner prescribed by law.

59. It is well settled that if something is required by law to be done in a particular manner, it shall be done only in that manner and not otherwise. Examining whether the Registering Authority did something in the manner required by law or otherwise, is certainly within the jurisdiction of the High Court under Article 226. However, it is needless to say that the High Courts may refuse to exercise jurisdiction in cases where the violations of procedure on the part of the Registering Authority are not gross or the violations do not shock the conscience of the Court. Lack of jurisdiction is completely different from a refusal to exercise jurisdiction.

10. Therefore, it is clear that this Court has jurisdiction under Article 226 of Constitution of India to declare any fraudulent document as a fraudulent one. On perusal of the sale deed, it indicates that the violations of the Registering Authority is gross and the violations have



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shocked the conscience of the Court and hence, the accused persons are now facing charges for the offences under Sections 419, 420, 465, 468, 471 and 120B of IPC.

11. This Court by its order dated 12.12.2024 passed in W.P.(MD).No.31151 of 2023, which involved a similar set of facts as in the present case. The relevant portion of the order is extracted hereunder:-

*8.Further, the fraud or impersonation cannot be interpreted in common parlance. Both are in the context of Sections 32 to 35 of the Registration Act and it provides power to the registering authority to conduct an enquiry and carry out necessary corrections or otherwise. Further, the registering authority has the power to initiate prosecution under Section 83 of the Registration Act. Therefore, the first respondent is empowered to conduct summary proceedings and if the allegations ie., fraud or impersonation on the face of the record, then the first respondent can declare that those documents were forged one. In fact, the first respondent can even cancel those documents on the grounds of fraud or impersonation. Further, this Court in the case of **J.Jayaniithaa Vs. Inspector General of Registration and others reported in [2021 (1) CTC 839]**, held that where a transaction has been held to be fraudulent, a party should*



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not be driven to a civil Court to cancel the document and proper entry has to be made in the Encumbrance Certificate reversing the earlier entry that was made place at the time when the fraudulent transaction was registered.

9. In fact, there is no need to cancel the document. It is very much suffice if a necessary entry is made in the Encumbrance Certificate reflecting the proceedings of the concerned authority declaring that the transaction is a fraudulent one. Once such an entry is made in the records, it automatically reverses the earlier registration of the fraudulent document.

12. Therefore, the very execution of the sale deed dated 30-09-2023 vide Document No. 13245/2023 is null and void since the executor/ second respondent in this case had no title over the property to execute the sale deed in respect of the subject property.

13. In view of the above, the sale deed dated 30-09-2023 registered vide Document No. 13245/2023 is hereby declared as null and void. The second respondent is directed to record the same forthwith.



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14. In so far as the final report is concerned, in Crime No. 24 of 2023, the learned Government Advocate (Crl.side) submitted that the entire investigation is completed and also produced a draft charge sheet before this court awaiting for sanction from the concerned authority to prosecute the accused. The authority concerned is directed to accord the sanction to prosecute the actual accused within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to file a complete charge sheet within a period of two weeks thereafter.

15. With the above directions, this writ petition stands disposed of.

No costs.

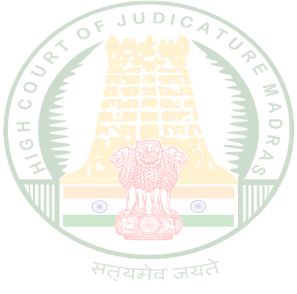
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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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