

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE K.SURENDER

W.A.No.1016 of 2023
and
C.M.P.No.10190 of 2023

1.Gurumurthi

2.Sangeetha @ Anbe Sangeetha

...Appellants

Vs.

1.The District Registrar,
Puducherry.

2.Mohanasundaram Rajamani

3.Abdulla

4.Abdul Kafoor (Died)

5.The Sub-Registrar,
Puducherry.

6.Umukulseem

7.Mariyam Riluvanan

8.Habeebullah Shibil

9.Safiya Sultana

10.Minor Shakriullah Fahim

11.Haseena Begum

12.Abdus Sabour Faizeni

13.Hafiz

14.Fajila Begum

15.Soumeya

16.Mariam Farida

17.Saboura

[R4 died, R11 to R17 are brought on record as legal heirs of deceased R4 vide order dated 20.11.2023 made in CMP.No.23357 of 2023.]

...Respondents

PRAYER : The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 01.08.2022 in W.P.No.11617 of 2016.

For Appellants : Mr.D.Ravichander

For Respondents : Dr.B.Ramasamy,

Addl. Govt. Pleader for R1 & R5

Mr.S.Patrick for R2, R6 to R17

R3 – Not ready in notice

R4 – Died steps taken

J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

Under assail is the Writ order dated 01.08.2022 passed in W.P.No.11617 of 2016.

2. The writ petitioners are the appellants before this Court. The issue raised in the present intra-Court appeal is, whether the District Registrar under the Registration Act is empowered to cancel the sale deeds by invoking powers conferred under Section 68(2) of the Registration Act.

3. It is not in dispute that a complaint came to be instituted by the respondents to nullify three sale deeds registered in sale deed Nos.592/2009 dated 20.02.2009, 895/2009 dated 12.03.2009 and 351/2011 dated 25.01.2011.

4. The District Registrar, Registration Department, Government of Puducherry entertained the complaint under Section 68(2) read with Section 75(4) of the Registration Act, 1908 [hereinafter referred to as “the Act”] and conducted an enquiry and nullified three sale deeds, which came to be challenged by way of Writ proceedings by the appellants before this Court.

5. The learned counsel for the appellants would mainly contend that the power assumed by the District Registrar under Section 68(2) of the Act is based on erroneous interpretation of scope of the provision and the word “fraud” under Section 68(2) of the Act will have a restricted meaning so as to correct an error, if any, made during registration of a document. It is contended that even before preferring a complaint before the District

Registrar, a civil suit was instituted between the parties in O.S.No.897 of 2013 on the file of the I Additional District Munsif, Puducherry. The prayer sought for in the plaint is to declare the above three sale deeds as null and void and for permanent injunction. The appellants have filed a counter claim in the suit and the suit and counter claim are pending as of now.

6. When the suit for declaration to declare the sale deeds as null and void is pending before the competent civil Court of law, the District Registrar entertained the complaint under Section 68(2) of the Act and declared that the sale deeds are null and void and thereby making the suit infructuous. The power which is otherwise not contemplated under the Act has been exercised and thus the present Writ Petition is to be considered.

7. Mr.S.Patrick, learned counsel appearing for the contesting respondents 2, 6 to 17 made a submission that it was a transaction between husband and wife and a fraud came to be committed. Therefore, the District Registrar exercised his power under section 68(2) of the Act, as well as the instructions issued by the Inspector General of Registration. That apart, the High Court is empowered to declare a document as null and void in exercise of powers of judicial review. Therefore, the writ Court was right in dismissing the Writ Petition filed by the appellants. The writ Court found that the transaction was a fraudulent transaction and sale deeds registered were also

identified as fraud. Thus, there is no infirmity in the Writ order and the appeal is to be rejected.

8. The disputed facts relating to the sale transactions or passing of consideration need not be adjudicated in the present Writ Appeal, since, the parties have chosen to file a civil suit in O.S.No.897 of 2013 and a counter claim, which are pending. The question to be considered in the present appeal is whether the order of the District Registrar nullifying the sale deed by invoking power under Section 68(2) of the Act is in accordance with the provisions or not. Section 68 of the Registration Act is extracted hereunder:-

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 considered 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.

9. The above provision is all about controlling power of the Registrar and the Inspector General. Sub-Section (2) in clear terms state that in respect of any Act or omission of any Sub-Registrar subordinate to him or in respect of

rectification of any error regarding the book or the office in which any document has been registered. Power to nullify registered document is not traceable under Section 68(2) of the Act. However, the Inspector General of Registration, Puducherry issued a circular dated 05.08.2021 in connection with the execution of fraudulent registration of documents, in pursuance to the directions issued by the Madurai Bench of Madras High Court in W.P.No.10177 of 2021 dated 17.06.2021. There is no power conferred under the Registration Act for the District Registrar to cancel the registered document similar to that of Section 77A of the Registration Act (Tamil Nadu Amendment Act, 2022). The said Section 77A was also declared as *ultra vires* by the Division Bench of this Court. Therefore, the power to cancel the sale deeds is not available to the District Registrar both in the State of Tamil Nadu as well as in the Union Territory of Puducherry.

10. The powers of Registrar under the provisions of the Act, 1908 to cancel the registered documents are no more *res integra* and the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India in **Satya Pal Anand Vs. State of M.P.** reported in **(2016) 10 SCC 767** held as follows:-

“34. The role of the Sub-Registrar (Registration) stands discharged, once the documents is registered (see Raj Mohammand Amir Ahmad Khan) Section 17 of the 1908 Act deals with documents which require compulsory registration. Extinguishment deed is one such document referred to in

Section 17(1)(b). Section 18 of the same Act deals with documents, registration whereof is optional. Section 20 of the Act deals with documents containing interlineations, blanks, erasures or alterations. Section 21 provides for description of property and maps or plans and Section 22 deals with the description of houses and land by reference to government maps and surveys. There is no express provision in the 1908 Act which empowers the Registrar to recall such registration. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. The power to cancel the registration is a substantive matter. In absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question. Similarly, the power of the Inspector General is limited to do superintendence of Registration Offices and make rules in that behalf. Even the Inspector General has no power to cancel the registration of any document which has already been registered.

36. If the document is required to be compulsorily registered, but while doing so some irregularity creeps in, that, by itself, cannot result in a fraudulent action of the State Authority. Non-presence of the other party to the extinguishment deed presented by the Society before the Registering Officer by no standard can be said to be a fraudulent action per se. The fact whether that was done deceitfully to cause loss and harm to the other party to the deed, is a question of fact which must be pleaded and proved

by the party making such allegation. That fact cannot be presumed. Suffice it to observe that since the provisions in the 1908 Act enables the Registering Officer to register the documents presented for registration by one party and execution thereof to be admitted or denied by the other party thereafter, it is unfathomable as to how the registration of the document by following procedure specified in the 1908 Act can be said to be fraudulent. As aforementioned, some irregularity in the procedure committed during the registration process would not lead to a fraudulent execution and registration of the document, but a case of mere irregularity. In either case, the party aggrieved by such registration of document is free to challenge its validity before the civil Court.

40. The Andhra Pradesh High Court, in Yanala Malleshwari was called upon to consider whether a person can nullify the sale by executing and registering a cancellation deed and whether the Registering Officer like District Registrar and / or Sub-Registrar appointed by the State Government is bound to refuse registration when a cancellation deed is presented. The fact remains that if the stipulation contained in Section 17 and 18 of the 1908 Act are fulfilled, the Registering Officer is bound to register the document. The Registering Officer can refuse to register a document only in situations mentioned in sections such as Section 19 to 22, 32 and 35. At the same time, once the document is registered, it is not open to the Registering Officer to cancel that registration even if his attention is invited to some irregularity committed during the registration of the document. The aggrieved party can

challenge the registration and validity of the document before the civil court. The majority view of the Full Bench was that if a person is aggrieved by the extinguishment deed or its registration, his remedy is to seek appropriate relief in the civil court and a writ petition is not the proper remedy.”

11. The Constitutional Courts have repeatedly held that the registering Authority is not empowered to go into the civil rights of parties. The competent Civil Court of law alone is empowered to declare the civil rights and the registering Authority has no jurisdiction or authority to adjudicate the disputed facts regarding civil rights of the parties in the present case.

12. Fraud or impersonation in the context of the Registration Act, 1908, is distinguishable. For fraud in the common parlance have wider connotation and meaning and the said general meaning of “fraud” cannot be adopted in respect of the documents registered under the Registration Act.

13. In the event of fraud being committed by any person, threefold actions are provided for an aggrieved person. Firstly, an aggrieved person may file a complaint to prosecute the persons under the Criminal Law. Secondly, such person is entitled to approach the Civil Court for establishing his civil rights. Thirdly, he can approach the competent Authorities for cancelling the registered documents. As far as the administrative action under

the provisions of the Registration Act is concerned, the definition of fraud cannot be expanded for the purpose of adjudication of civil disputes.

14. Only in the event of fraud apparent on record, the registering Authority can interfere, but, not otherwise. Therefore, the registering Authority is not empowered to usurp the power of the civil Court. Such exercise of powers act akin to the powers of the civil Court. Even if there is any iota of doubt regarding civil rights, the parties are to be relegated to the civil Court of law for the purpose of establishing their rights.

15. When the District Registrar has no power to adjudicate, the civil rights of the parties, he ought not to have cancelled the sale deeds. Such a power has been conferred only on the Civil Court and such declarations cannot be given based on summary proceedings. In the event of declaring the document as fraudulent by the District Registrar, merely by conducting summary proceedings, it would infringe the civil rights of the parties regarding the properties and more so, right to property is of constitutional right and Article 300 A of the Constitution of India gets violated, since such right can be taken away only by the authority of law.

16. In the present case, admittedly, the civil suit in O.S.No.897 of 2013 was instituted and the appellants filed a counter claim. Both the litigations are

pending before the competent civil Court of law. Complaint under Section 68(2) of the Act was filed in the year 2016, after a lapse of 3 years from the date of institution of the civil suit. Therefore, it would be not appropriate on the part of the District Registrar to entertain the complaint during the pendency of the civil suit and pass orders nullifying three sale deeds registered under the provisions of the Act. The District Registrar has not only exceeded his power conferred under the Act, but such a power exercised is not available to him under Section 68(2) of the Act.

17. The writ Court has mainly proceeded based on the facts relatable to the alleged fraud, which cannot be adjudicated in a writ proceeding. Since it is a disputed fact raised between the parties, all these grounds are to be raised in the civil suit as well as in the counter claim instituted between the parties.

18. However, this Court make it clear that any observation made in the present order may not affect the grounds as well as the documents relied on by the parties in the civil suit. The civil Court is requested to deal with the issue independently and un-influenced by the observations made in the present order.

19. In view of the above discussions made in the aforementioned paragraphs, the writ order impugned dated 01.08.2022 in W.P.No.11617 of

2016 is set aside and the Writ Appeal stands **allowed**. No costs.

Consequently, the connected miscellaneous petition stands closed.

(S.M.S., J.) (K.S., J.)

04.03.2026

dsa

Index :Yes

Neutral Citation :Yes

Speaking order

To

1.The District Registrar,
Puducherry.

2.The Sub-Registrar,
Puducherry.

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S.M.SUBRAMANIAM, J.
and
K.SURENDER, J.

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