Office of Inspector General of Registration,
Chennai.

Circular

No.37248/ C1/ 2021, dated 29-06-2022

Sub: Registration of documents - place for registering documents relating to land - Section 28 of The Registration Act, 1908 - misuse of the provision - curtailing fraudulent documents - instructions issued - reg

Ref: 1. Deputy Inspector General of Registration, Madurai letter no. 6549/B1/2021, dated.30.09.2021
2. District Registrar, Palayamkottai letter no.6744/A1/2021 , dated.30.09.2021

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In the reference second cited, the District Registrar, Palayamkottai has reported that an instrument concerning a property belonging to Arulmigu Meenakshi Sundareshwarar Temple in Madurai situated within the jurisdiction of Chokkikulam Sub Registrar office along with another smaller property situated within the jurisdiction of Murappanadu Sub Registrar has been registered at Murappanadu Sub Registrar office as document number 1715/2021. In that instance, the registering officer failed to seek report whether the property belongs to the Government or HR & CE or Waqf board etc., from the concerned Chokkikulam SR office. It is also seen from records that the Joint Commissioner, Arulmigu Meenakshi Sundareshwarar Temple has confirmed through a letter stating that the property belongs to the Temple in the year 2016 itself. One person owns the property falling within the jurisdiction of

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Murappanadu, whereas 10 other spurious persons have claimed alleged ownership over the temple property.

In the reference first cited, the Deputy Inspector General of Registration, Madurai has also reported that another instrument concerning the same property belonging to Arulmigu Meenakshi Sundareshwarar Temple in Madurai falling within the jurisdiction of Chokkikulam Sub Registrar office, along with another smaller property situated within Vadamadurai jurisdiction, has been registered at Vadamadurai Sub Registrar office as document number 3444/2021. In this instance also, the registering officer failed to seek report whether the property belongs to Government or HR & CE or Waqf board etc., from the concerned Chokkikulam SR office. Moreover, in this case also the Vadamadurai property is owned by a person who is different from the spurious person who claimed alleged ownership over the temple property under the said instrument.

Section 28 of The Registration Act, 1908is extracted below

> *"28. Place for registering documents relating to land.—Save as in this Part otherwise provided, every document mentioned in clauses(a) , (b), (c), (d) (e), (f), (g), (h) and (i) of sub section (1) and sub section (2) of section 17 insofar as such document affects immovable property and in clauses (a), (b), (c) and (cc) of section 18, shall be presented for registration in the office of a Sub-Registrar within whose sub-district the* ***whole or some portion of the property*** *to which such document relates is situate in the State of Tamil Nadu.*

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Provided that every document mentioned in clause (h) of sub-section (1) of section 17 may also be presented for registration in the office of the Sub-Registrar within whose jurisdiction the principal ordinarily resides.

(b) any document registered outside the State of Tamil Nadu in contravention of the provisions of clause (a) shall be deemed to be null and void."

A casual reading of the section 28 may give an impression that if an instrument comprising two different properties falling within the jurisdiction of two different Sub Registrar it can be registered by the either of the Sub Registrar offices. But here the essential legal aspect to be ensured is whether owner of the two properties are one and the same.

In the cases on hand, a Property falling within the jurisdiction of Chokkikulam SR office alleged to be owned by one set of persons and another property falling within the jurisdiction of Murappanadu SR office and Vadamadurai SR office said to be owned by different set of people have deceitfully encompassed in an instrument. Here it is pertinent to note that a purchaser need not club both properties together.

Section 34 A of Registration Act, 1908 inserted by The Registration (Tamil Nadu Amendment) Act 28 of 2000 with effect from 14-4-2001 stipulates that a person claiming under a document of sale of property shall also affix his signature in the sale deed. Before the advent of aforesaid provision, only sellers were bound to affix their sign in a deed of sale. Thus a conjoint reading of pre-amended section 34A and section 28(a) of the Act would make it abundantly clear that the scheme of

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Registration Act is to enable the one and the same property owner(s) having more than one property situated within the jurisdiction of more than one Sub Registrar office to opt to get the sale deed registered at any one of those Sub Registrar offices. Hence, this provision will not be applicable if the owners of the two properties are different.

Further, observations found in various court orders relating to Section 28 of the Registration Act, are extracted as under:

Indian Appeals, 1914, Vol, no XLI. Page 110.

"Where in a mortgage deed a fictitious item of property was included in order to effect its registration in a particular office which was found to suit the convenience of the presentant although no property really forming the subject-matter of the document lay within the jurisdiction of that office, it was held by the Privy Council that such registration was invalid."

I.L.R 39, All 523, followed in I.L.R 41.All 385

"In order to prevent certain persons interested in the bulk of the property which was purported to be sold and which was in the district of Pilibbhit becoming aware of the existence of a sale deed, the vendor included in the deed a small piece of property situated in the City of Bareilly which in fact did not belong to him and had the sale deed registered in Bareilly. Held that this transaction was merely a fraudulent evasion of the

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registration Law and that the sale deed conveyed no title to the purchasers in respect of any of the property comprised in it."

S.A, No, 1522 of 1918, Madras High Court

"In a sale deed intended to convey properties situated, within the registration District of M the parties included a very small item of property which neither the vendor intended to sell nor the purchaser to buy and it appeared that this was done in order to effect registration of the sale deed in another registration district wherein the small item was situate. Held, that the action of the parties amounted to a fraud on the registration law and the sale deed was not duly registered so as to effect any of the properties sought to be conveyed"

Raja Sobharadra AppaRao Bahadur Garu Vs. Raja Muganti Venkatarama Rao, 1930 (32) LW 680.

"'Some portion of property' - meaning of.- The words 'some portion of property' occurred in section 28 means some substantial portion of property."

Thus from the combined reading of the relevant provisions of the Registration Act, 1908 as well as the judicial pronouncements, it becomes clear that inclusion of a very small item of property, which neither the vendor intended to sell nor the purchaser intended to buy, is done with ulterior motive to grab a property by getting the registration of a sale deed in another registration district wherein the smaller item of property

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is situated. Hence, it is clear that such acts are done with the sole aim of registering bogus sale deeds with collusion of the concerned Registering officer and that amounts to fraud. Such fraudulent acts affect the innocent real owner of the property severely and he is forced to approach the Civil Court for no wrong on his part.

In order to avoid these kinds of registrations, the registering officers are instructed to adhere to following directions:

1. No registering officer shall accept for registration of a deed containing more than one property which are situated within different Sub Registrar offices, if the owners/sellers of the properties are different.

(பதிவுக்கு தாக்கலாகும் ஆவணத்தில் இடம் பெற்றிருக்கும் ஒன்றுக்கு மேற்பட்ட சொத்துக்கள் வெவ்வேறு சார்பதிவக அதிகார எல்லைக்குட்பட்டிருக்கும் நேர்வுகளில் அச்சொத்துகளின் உரிமையாளர்/விற்பனையாளர் வெவ்வேறு நபர்களாக இருப்பின் அவ்வாவணத்தினை எந்தவொரு சார்பதிவாளரும் பதிவுக்கு ஏற்கக் கூடாது.).

2. The above said criterion will not be applicable to Deposit of Title Deed or Mortgage executed in favour of the Banks or Non-Banking Financial Institution, Exchange deed, POA and Partition deeds. But, such documents should compulsorily be kept pending and 'Status Report' regarding the other property situate in other Sub-Registrar office (as to any legal impediment with regard to the registration of the property) should be obtained from the

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other SR office through their respective Deputy Inspector General of Registration. The subject document may be registered if there are no legal impediments in respect of such other property as per the 'Status Report' received from the other SR office with the concurrence of the respective Deputy Inspector General of Registration.

(இருப்பினும், வங்கி மற்றும் நிதி நிறுவனங்களிடம் பெறப்படும் கடனுக்காக எழுதிகொடுக்கப்படும் உரிமை ஆவணங்கள் ஒப்படைப்பு ஆவணம் அல்லது அடமானம், பரிவர்த்தனை, பொது அதிகார ஆவணம் மற்றும் பாக ஆவணங்களுக்கு இந்த அளவுகோல் பொருந்தாது, இருப்பினும், அவ்வாவணம் பதிவுக்கு தாக்கலாகும் சார்பதிவகத்தில் நிலுவையில் வைக்கப்பட்டு, வேறு சார்பதிவக அதிகார எல்லைக்குட்பட்ட சொத்தை பொருத்து சட்டம் மற்றும் விதிகளின்படி அச்சொத்தின்மீது ஆவணப் பதிவுக்கு தடை உள்ளதா? என்பது குறித்து மேற்படி சார்பதிவகத்தினை கட்டுப்பாட்டில் கொண்டுள்ள துணை பதிவுத் துறை தலைவரின் ஒப்புதலுடன் கூடிய நிகழ் நிலை அறிக்கையினை அச்சார்பதிவாளரிடம் பெற்று, பதிவிற்கு தடையேதுமில்லாதிருப்பின் ஆவணத்தை பதிவு செய்ய வேண்டும்.)

3. This circular is issued based on the powers conferred under section 69(1) (j) of the Registration Act, 1908.

4. District Registrar (Admin) and (Audit) should thoroughly check these kinds of registrations as to whether the procedure laid

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down in this circular was followed and send report to concerned DIG and IGR, in case any deviation or any act with malafide intention is found.

Deviation if any found in this regard will be viewed seriously. The concerned District Registrar (Admin) and (Audit) will also be held responsible for such inappropriate registrations occurred within their jurisdiction.

The receipt of this circular may be acknowledged hierarchically.

Sd./ 29.06.2022
Inspector General of Registration

/By Order/

District Registrar (Inspection)

To

All Sub Registrars,

All District Registrars

All Deputy Inspector General of Registration,

Director, RTI,

Copy to

Special PA to Hon'ble Minister, Commercial Taxes and Registration Department.

The Secretary, Commercial Taxes and Registration Department.

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