

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.10.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

W.P.No.13804 of 2012
&
M.P.Nos.1 and 2 of 2012

Marakkal [Petitioner]

Vs

- 1 The Inspector General of Registration
20, Santhome High Road
Chennai - 28
2. The District Registrar
(Administration)
(Assistant I.G of Registration Cadre)
Erode District, Erode
3. The Sub-Registrar
Anthiyur
Erode District
4. K.K.Muthusamy [Respondents]

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari calling for the records relating to the impugned Circular No.67 dated 03.11.2011 in C.No.52338/C1/2011 on the file of the 1st respondent and the consequential order in Na.Ka.No.6229/A1/2011 dated 12.04.2012 (served on 11.05.2012) on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.R.Vijayakumar, AGP (R1
to R3)
Mr. V.Parameshwaran for R4

O R D E R

[Order of the Court was made by A.SELVAM, J.]

This Writ Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to impugned Circular No.67 dated 03.11.2011 in C.No.52338/ C1/2011, on the file of the first respondent and consequential order passed in Na.Ka.No.6229/A1/2011 dated 12.04.2012, served on 11.05.2012, on the file of the 2nd respondent and quash the same by way of issuing a certiorarified mandamus.

2. The Learned counsel appearing for the petitioner has contended to the effect that the Government of Tamil Nadu have issued Circular dated 20.10.2017, wherein Circular No.67 dated 03.11.2011, has been withdrawn. Since the second respondent has passed the impugned order in Na.Ka.No.6229/A1/2011 dated 12.04.2012 merely on the basis of Circular No.67 and the same has already been withdrawn subsequently, the said order is also liable to be quashed.

3. The learned counsel appearing for the fourth respondent has repeatedly contended that Circular No.67 dated 03.11.2011 has been withdrawn by virtue of circular dated 20.10.2017 and further, as per Section 83 of the Registration Act, 1908, the second respondent is having ample power to recommend for launching prosecution. Under the said circumstances, the impugned order dated 12.04.2012 cannot be quashed in toto.

4.The learned Additional Government Pleader has contended to the effect that in the Circular dated 20.10.2017, it has been specifically stated that mere withdrawal of Circular No.67 dated 03.11.2011 would not curtail the powers mentioned in Section 83 of the Registration Act, 1908.

5.Basing upon the divergent submissions made on either side, the Court can easily discern that Circular No.67 dated 03.11.2011 has already been withdrawn in pursuance of Circular dated 20.10.2017 by the Government of Tamil Nadu.

6. Now, the only question is as to whether the second respondent viz., District Registrar can invoke powers mentioned in Section 83 of the Registration Act, 1908.

7. Even in the Circular dated 20.10.2017, a specific mention has been made that simply because Circular No.67 dated 03.11.2011 has been withdrawn, the powers of District Registrar mentioned in Section 83 of the Act, cannot be curtailed. Therefore, as per Section 83 of the said Act, the District Registrar is having ample power to recommend for launching prosecution.

8. In the instant case, as per order dated 12.04.2012, the second respondent viz., District Registrar has made his recommendation to the third respondent (Sub Registrar) to launch prosecution and also cancel the document.

9. Considering the fact that even though Circular No.67 dated 03.11.2011 has been withdrawn, the powers available under Section 83 of the Act, can be invoked by the District Registrar.

10. As rightly mentioned by the learned counsel appearing for the fourth respondent, in the order dated 12.04.2012, the second respondent has directed the third respondent to launch prosecution and also cancel the document.

11. Considering the fact that the powers available under Section 83 of the Registration Act, 1908 are not curtailed in view of the withdrawal of Circular No.67 dated 03.11.2011, this Court is inclined to pass the following order.

12. In fine, this writ petition is allowed in respect of the first relief sought therein without costs. However, in respect of the consequential relief sought in the petition, this Court is inclined to observe as follows:

The third respondent viz., Sub-Registrar, Anthiyur is directed to proceed under Section 83 of the Registration Act, 1908, as directed by the second respondent, as per law. With regard to the direction in respect of cancellation given in the impugned order dated 12.04.2012 is quashed.

Consequently, the connected miscellaneous petitions are closed.

gpa

सत्यमेव जयते

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

- 1 The Inspector General of Registration
20, Santhome High Road
Chennai - 28

2. The District Registrar
(Administration)
(Assistant I.G of Registration Cadre)
Erode District, Erode
3. The Sub-Registrar
Anthiyur
Erode District

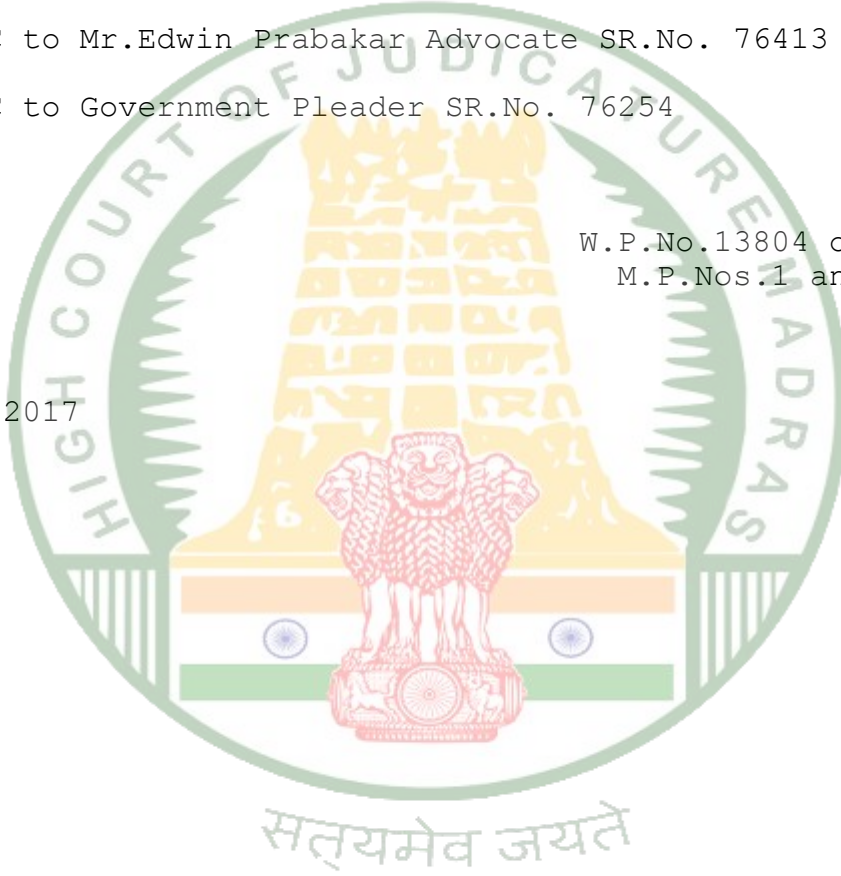
+1 CC to Mr.Manokaran Advocate SR.No. 75870

+1 CC to Mr.Edwin Prabakar Advocate SR.No. 76413

+1 CC to Government Pleader SR.No. 76254

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MG (CO)
MLT 22/11/2017



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