



W.P.No.1377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1377 of 2023

and

W.M.P.Nos.1447 & 1448 of 2023

1.Thangarasu

2.Sarojini

3.Thanaletchumy

4.Mahadevan

5.Jothimalar

...Petitioners

-Vs-

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
100, Santhome High Road, Mylapore,
Foreshore Estate, Chennai,
Tamil Nadu – 600 028.

2.The Deputy Inspector General of Registration,
Office of the Deputy Inspector
General of Registration,
2nd Floor, Government Multistoried Building,
Kajamalai, Mannarpuram, Trichy – 620 020.



W.P.No.1377 of 2023

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3.The District Registrar,
Office of the District Registrar,
Ariyalur, Ariyalur District.

4.The District Registrar,
Office of the District Registrar,
Perambalur, Perambalur District.

5.The Sub-Registrar,
Office of the Sub-Registrar of Perambalur,
Perambalur District.

6.Sara Begum

7.Jerina Begum

8.Sabina

9.R.Raju

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceedings bearing Na.Ka.No.127/E1/2019 dated 15.03.2022 and the impugned order passed by the 3rd respondent vide proceedings Na.Ka.No.6098/A2/2017 dated 31.01.2018 and quash the same and consequently direct the 4th respondent to invoke the provision of Section 77A of the Registration Act and to reconsider the complaint of the petitioners in proper prospect and to dispose of the same within a time frame.



W.P.No.1377 of 2023

For Petitioners : Mr.G.Ilamurugu
For R1 to R5 : Mr.D.Ravichander
Special Government Pleader
For R6 to R8 : Mr.Sunny.S
for Ms.V.Srimathi
For R9 : Mr.R.Ragavendran

ORDER

The order dated 31.01.2018 issued by the District Registrar, Ariyalur, refusing to entertain the application submitted by the petitioners in view of Circular 67 of 2011, is under challenge in the present Writ Petition.

2. Circular 67 of the year 2011 has already been withdrawn by the Government of Tamil Nadu. In lieu, Section 77A of the Registration Act (hereinafter referred to as 'the Act') has been inserted with effect from 16.08.2022.

3. The grievance of the petitioners is that in respect of the property belonging to them, a sale deed was registered in the year 1996 in the State of Kerala. Based on the sale deed registered in the State of Kerala, an entry



W.P.No.1377 of 2023

was made in the encumbrance on the file of the Sub-Registrar, Perambalur in the year 2012. The petitioners are claiming right over the subject property.

Thus, they have filed an application to cancel the sale deed of the year 1996, which was registered in Kerala and the consequential entries made in the office of the Sub-Registrar at Perambalur. The contention of the petitioners is that the property is situated in the State of Tamil Nadu and therefore, the District Registrar, in the State of Tamil Nadu, is empowered to cancel the document.

4. It is not in dispute that two Civil Suits are instituted in O.S.No.235 of 2018 and O.S.No.580 of 1995. Both the suits are said to be pending. It is brought to the notice of this Court that the relief sought for in O.S.No.235 of 2018 is to declare the disputed document as null and void. During the pendency of the suit, the petitioners have submitted an application to cancel the very same sale deed executed in the State of Kerala.

5. Circular 67 of the year 2011 has already been withdrawn and therefore, the authorities cannot invoke the powers based on the said



W.P.No.1377 of 2023

WEB COPY

Circular as of now. With reference to Section 77A of the Act, it is amended under the Tamil Nadu Act 41 of 2022. The said amendment made under the Registration Act by inserting Section 77A cannot be exercised with reference to the documents registered in other States. The amendment can be effected within the territory of the State of Tamil Nadu and therefore, the documents registered in other States are beyond the jurisdiction of the registering authority or the appellate authority of the Registration Department in the State of Tamil Nadu. The Registration Department authorities in the State of Tamil Nadu has no power or jurisdiction to call for the documents registered in other States and therefore, the power under Section 77A of the Act cannot be exercised by the District Registrar of the Registration Department in the State of Tamil Nadu in respect of the documents registered in the State of Kerala.

6. This being the legal position, the petitioners have to seek appropriate relief in the suit already instituted for declaration of the document registered in the State of Kerala as null and void.



W.P.No.1377 of 2023

7. At this juncture, the learned counsel for the petitioners raised an apprehension that the contesting respondents have alienated the property. In this regard, the petitioners are at liberty to seek appropriate relief before the competent Court of law by following the procedures.

8. As far as the present Writ Petition is concerned, the order impugned passed by the District Registrar, refusing to entertain an application for the purpose of invoking 77A of the Act, is in consonance with the spirit of the amendment effected and there is no infirmity as such.

9. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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W.P.No.1377 of 2023

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WEB COPY

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W.P.No.1377 of 2023

S.M.SUBRAMANIAM, J.

hvk

W.P.No.1377 of 2023

26.07.2023