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W.P.No.2209 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :01.02.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**Writ Petition No.2209 of 2023**  
**and WMP.No.2289 of 2023**

1. B.Bhavani
2. R.Revathi
3. K.Sabari
4. M.Usha

... Petitioners

-Vs-

1. The Secretary,  
Department of Registration and Commercial Taxes,  
Fort St.George,  
Chennai – 600 009.
2. The Inspector General of Registration,  
No.100, Santhome High Road,  
Mylapore, Chennai – 600 004.
3. The District Registrar,  
Kanchipuram Registration District, Kanchipuram
4. The Sub Registrar,  
Sub Registrar's Office,  
Walajabad & PO,  
Kanchipuram District.
5. D.Pachaiappan Pillai
6. Padmavathy Mani Pillai

... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for records pertaining to proceedings in Na.Ka.No.8264/A2/2021 dated 04.01.2023 pending on the file of 3<sup>rd</sup> respondent and quash the same.

For Petitioners : Dr.S.S.Swaminathan  
For Respondents : Mr.Yogesh Kannadasan  
Special Government Pleader [R1  
to R4]

### **ORDER**

The prayer sought for herein is for a writ of Certiorari to quash the impugned proceedings in Na.Ka.No.8264/A2/2021 dated 04.01.2023 pending on the file of 3<sup>rd</sup> respondent.

2. Against the petitioners, some complaint had been given in 2020 pertaining to the land at S.No.72/1B, 72/1D, 72/1E at Panruti Village, Sriperumbudur Taluk, Kancheepuram at SRO, Walajabad and in order to conduct an enquiry under Section 68(2) of the Registration Act, 1908 [in short, 'the Act'] initially notice seem to have been issued, pursuant to which, it is a claim of the petitioners that, the petitioners appeared before the third respondent i.e., District Registrar and made their defense, however, for two years no orders have been passed.



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3. After two years now the present summon has been issued on 04.01.2023 directing the petitioners to appear before the third respondent on 24.01.2023.

4. In this context, it is the contention of the learned counsel appearing for the petitioners, who challenged the impugned summon dated 04.01.2023 issued by the second respondent that the summon now issued was under Section 68(2) of the Act as stated therein itself, however, such an enquiry, if at all to be conducted that can only be conducted under Section 77-A of the Act. Therefore, the present move made by the third respondent within the meaning of Section 68(2) of the Act may not be justifiable. Therefore, on that ground mainly, the petitioners have moved the present writ petition.

5. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 4, who would submit that, earlier the complaint was given in the year 2020, at that time, the only provision available was Section 68(2) of the Act, therefore, some part of the enquiry might have been completed and in conclusion of the enquiry



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to give an opportunity of being heard to the petitioners against whom such complaint had been given by the private respondents, the impugned summon dated 04.01.2023 has been issued, where Section 77-A of the Act could not be quoted and hence, Section 68(2) of the Act has been quoted and that does not mean that enquiry would be confined under Section 68(2) of the Act, in fact it has to be expanded and to be completed only under Section 77-A of the Act as per the amended provision, which came into effect from 16.08.2022. Therefore, the learned Special Government Pleader wants to sustain the impugned summon and seeks indulgence of this Court to give a direction to the third respondent to complete the enquiry under Section 77-A of the Act, of-course by giving an opportunity of being heard to both the petitioners as well as the private respondents.

6. Having considered the said submissions made by both sides, especially the stand taken by the learned Special Government Pleader appearing for the official respondents and having dispensed with the notice to be given to the private respondents, in view of the order going to be passed in this writ petition, this Court is inclined to dispose of this





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**R. SURESH KUMAR, J.**

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