



W.P.No.3379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.3379 of 2023 and
W.M.P.No.3450 of 2023

Ravichandran .. Petitioner

vs

1. The District Registrar (Administration)
Office of the District Registrar
No.4/36, Lalkhan Street
Chidambaram – 608 001.

2. Geetha .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the first respondent pertains to the impugned show cause notice dated 27.12.2022 bearing reference No.6859/Aa1/2022 and quash the same as without jurisdiction, illegal.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mrr.Yogesh Kannadasan
Special Government Pleader
for respondent 1

Notice dispensed with
for respondent 2



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ORDER

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The prayer sought for herein is for a Writ of Certiorari, calling for the records of the first respondent, pertaining to the impugned show cause notice dated 27.12.2022 bearing reference No.6859/Aa1/2022 and quash the same as without jurisdiction and illegal.

2. That the second respondent had given a complaint on 07.12.2022 against the petitioner before the first respondent alleging that the Document Nos.120/2012, 121/2012, 1123/2014 and 9/2020 on the file of the Sub Registrar, Sethiyarthope are fraudulent or forged documents. Therefore, in order to conduct an enquiry to that effect and to declare it as a forged one or bogus one and for the consequential relief to cancel those documents, he had filed the said complaint on 07.12.2022.

3. Having entertained the said complaint from the second respondent, the first respondent has issued summons to the petitioner on 27.12.2022, wherein, the first respondent has sought the following show cause from the petitioner:

“பார்வை (1)ல் கண்டுள்ள புகார் மனுவில்
சேத்தியாதோப்பு சார்பதிவாளர் அலுவலகத்தில் பதிவு



செய்யப்பட்ட ஆவண எண்கள்.120/2012, 121/2012, 1123/2014, 9/2020 ஆவணத்தினை ரத்து செய்யக் கோரப்பட்டுள்ளது. (புகார் மனு நகல் இணைக்கப்பட்டுள்ளது).

பார்வை (2)ல் கண்டுள்ள தமிழ்நாடு சட்டத் திருத்தம் எண்.41/2022 நாள் 06/08/2022ல் பதிவுச்சட்டம் பிரிவு 77A-ல் தெரிவித்துள்ளவாறு மேற்படி ஆவணங்களை ஏன் ரத்து செய்யக்கூடாது என்பதற்கான காரணங்களை உரிய ஆதார ஆவணங்களை நேரிலோ அல்லதுது பதிவு அஞ்சல் மூலமாகவோ 23.01.2023 அன்று மாலை 5.30 மணிக்குள் கீழ்காணும் முகவரிக்கு அனுப்பி வைக்குமாறு அறிவிக்கப்படுகிறது.”

Aggrieved over the said summons issued by the first respondent, the petitioner has filed the present writ petition, challenging the same.

4. Heard Mr.P.R.Thiruneelakandan, learned counsel appearing for the petitioner, who would submit that, insofar as the documents in question are concerned, those documents are of the year 2012-20. Whereas, amendment to the Registration Act, 1908 (for brevity, referred to as “the Act”) has come into effect only with effect from 16.08.2022, under which, certain provisions like Section 77A of the Act has been inserted, which alone empower the District Registrars to act as a Quasi-Judicial Authority to enquire the complaint given in this regard by



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any aggrieved party against any document registered already, which ought not to have been registered within the meaning of Section 22A or 22B of the Act.

5. When that being so, any law, which has been made by the Legislature will have only prospective effect if it adversely affects the right of the parties and therefore, the present amendment inserting Section 77A of the Act would also have a prospective effect. That means, those documents, which had been already registered prior to 16.08.2022 shall not be brought under the purview of Section 77A of the Act. Therefore, on that ground, the first respondent does not have jurisdiction to entertain such complaint and issue the impugned summons.

6. In support to his contention, he relied upon a decision of the Hon'ble Supreme Court of the year 1960 in **[CDJ 1960 SC 348]** in the matter on **Moti Ram Vs Suraj Bhan & Ors.**, where, he has relied upon the following passage:

“8. That takes us to the other contention that the amended provision of S.13(3) (a)(iii) applies. There is no doubt that if this amended provision applied to the present case respondent 1 would not be entitled to obtain an order to ejectment. It is plain that by the amendment Legislature has imposed rigorous limitations on a landlord's right to recover possession in the case of any building or rented land. The



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question is whether this amendment can be said to be retrospective in operation. It is clear that the amendment made is not in relation to any procedure and cannot be characterised as procedural. It is in regard to a matter of substantive law since it affects the sub-stantive rights of the landlord. It may be conceded that the Act is intended to provide relief to the tenants and in that sense is a beneficial measure and as such its provision should be liberally construed; but this principle would not be material or even relevant in deciding the question as to whether the new provision is retrospective or not. It is well-settled that where an amendment affects vested rights the amendment would operate prospectively unless it is expressly made retrospective or its retrospective operation follows as a matter of necessary implication. The amending Act obviously does not make the relevant provision retrospective in terms and we see no reason to accept the suggestion that the retrospective operation of the relevant provision can be spelt out as a matter of necessary implication. We ought to add that Mr.Bindra has not argued that the initial provision in S.13(1) which is retrospective is attracted in interpreting the amended provision in S.13(a)(iii). Such a contention would of course be wholly untenable.”

7. The learned counsel would also submit that, already two times, the petitioner had faced enquiry and therefore, this is the third enquiry that has been commissioned or initiated at the behest of the second respondent, who said to have



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given the complaint against the petitioner. Therefore, this kind of repeated enquiry cannot be made by the first respondent even under Section 77A of the Act by exercising his Quasi-Judicial power. Therefore, on that ground also, the impugned summons is infirm, he contended.

8. He would also submit that, except the impugned summons, no other documents have been received by the petitioner. Therefore, what complaint has been given by the second respondent against the petitioner, for which, supporting documents have been filed, is not known to the petitioner as neither a copy of the complaint nor copy of the documents, if any filed by the second respondent, been served on the petitioner. Without serving those documents, it cannot be expected from the petitioner to give reply or defence to support the said documents which are in question and therefore, on that ground also, the impugned summons cannot be permitted to proceed further, he contended.

9. Heard Mr.Yogesh Kannadansan, learned Special Government Pleader appearing for the first respondent. In view of the order going to be passed in this writ petition, notice to the second respondent is dispensed with.



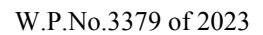
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10. Mr.Yogesh Kannadansan, learned Special Government Pleader would submit that, the grounds now urged by the learned counsel appearing for the petitioner have already been urged more than a dozen cases which came up for consideration before this Court and orders were passed, where, the Court has consistently held that the Quasi-Judicial power now vested with the District Registrars, by virtue of amendment in the Act, especially under Section 77A of the Act, cannot be denuded or taken away by making these technical objections.

11. The learned Special Government Pleader would further submit that, if at all the petitioner has got any grievance that the copy of the complaint and the copy of the documents, if any filed by the second respondent, have not been furnished, certainly, those documents would be furnished to the petitioner and thereafter, after giving the opportunity of being heard, then only the issue would be decided, on merits and in accordance with law, by the first respondent, he contended.

12. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

13. Insofar as the aforestated two grounds raised by the petitioner by citing a



14. To that extent, the intensity of these frauds were committed throughout the State, under which, by way of fraudulent transactions several properties were encumbered, sold or transferred by those fraudulent people without any knowledge of the real owners.

15. After some time, if the real owners come to know that his property has



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been meddled with or encumbered by these fraudulent activities, these people were driven to come before the competent Civil Court to file a suit for declaration and recovery of possession of the property. That kind of legal position, since was prevailing throughout India, including the State of Tamil Nadu, the genuine owner of the property, who lost their property at the hands of the fraudsters, were in pitiable situation to come before the Civil Court and agitate before the Civil Court by filing civil litigations for decades together.

16. In order to alleviate the said difficulties faced by the genuine owners of the immovable properties, this Court, having considered the pros and cons of the issue, including the legal position, made a suggestion to the State Government to bring appropriate amendment in the Act to empower the Registration Authority in a particular level to enquire the matter, if any such complaint has come from the aggrieved party against such fraudulent transaction and based on which, the power of declaring such documents as fraudulent or bogus one and consequentially canceling the documents by the Registering Authority is to be vested with Registration Department.

17. The said suggestion given by the Court having been accepted by the



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State Legislature, they thought if fit, with their wisdom, to bring an amendment to the Act. Accordingly, Sections like 22A, 22B, 77A and 77B were brought in as amended provisions in the Act for the first time in India.

18. Since the Registration Act, 1908 being a Central Legislation, the assent from the Hon'ble President of India was also obtained by the State Government and accordingly, this amended provisions have been given effect from 16.08.2022.

19. After the amendment has come into effect, new powers since has been vested with the District Registrars concerned as well as the Inspector General of Registration to entertain any complaint from the aggrieved parties against any alleged fraudulent or bogus transaction or registration of document, those complaints having been entertained, summons were issued by the District Registrars concerned to enquire the matter, where on receipt of such summons, the persons against whom such complaint has been given, who received summons from the District Registrar, to appear before him to proceed with the enquiry, has rushed to this Court and filed writ petitions.

20. For the past two months, nearly above 20+ cases of this nature have



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come before me and in all these cases, commonly, the present grounds raised by the learned counsel appearing for the petitioner in this case had been raised.

Considering these grounds raised on behalf of the petitioners in those cases, this Court decided those cases, where the plea like the present, where civil suit is already pending or the parties to go before the Civil Court instead of going before the District Registrars under Section 77A and the District Registrars has got jurisdiction only prospectively from 16.08.2022, therefore, the documents, even though fraudulent one, had it been registered prior to 16.08.2022, it cannot be enquired by the District Registrar by exercising his Quasi-Judicial power vested in him under Section 77A, etc were raised. These grounds raised in the writ petitions then and there have been dealt with by this Court and a number of orders have been passed. Despite this, almost every day these kind of cases are coming and learned counsel put forth the very same grounds. One such latest case, which was disposed of by this Court is ***W.P.No.3804 of 2023*** dated 09.02.2023 in the matter of ***E.Harinath Vs Inspector General of Registration and Ors.***, where, I have given my detailed reasons as to how and why these kinds of grounds being urged by the petitioners, who receive summons under Section 77A of the Act from the Registrars concerned, has to be rejected. The relevant portion of the said order is usefully extracted hereunder:



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“8. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the official respondents. In view of the order that is going to be passed in this writ petition, notice to the 3rd respondent is hereby dispensed with.

9. Learned Special Government Pleader would submit that, the power vested with the 2nd respondent District Registrar is the statutory power vested under Section 77-A of the Act and that power being a quasi judicial power the District Registrar has to entertain such complaint given by any aggrieved party against the documents which have already been registered, which ought not to have been registered within the meaning of Section 22A / 22B of the Act and once the complaint is entertained, the District Registrar has to issue summons / notices to the complainant as well as persons against whom such complaint has been given. He would also submit that the District Registrar under Section 77-A of the Act is also having suo motu power to ascertain whether any



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fraudulent transaction has taken place pursuant to which registration has taken place and by thus those documents would become fraudulent / bogus documents within the meaning of Section 22A / 22B. That power also since is vested with the District Registrar, there is every justification on the part of the 1st respondent to issue such summons pursuant to the complaint given by the 3rd respondent having been entertained by him. Therefore, the impugned summons cannot be said to be infirm one or without any jurisdiction.

10. Learned Special Government Pleader further submits that, insofar as the circular dated 27.09.2022 is concerned, illustrative circumstances have been stated by the IGR as to which circumstances would definitely fall under Section 22A / 22B of the Act. That does mean that the jurisdiction of the District Registrar would be denuded or taken away by the strict application of the circular alone because, it is settled proposition of law that, any circular issued by the authorities concerned would not override the



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power vested with any authority under the Statute. Therefore, on that ground the plea raised by the petitioner cannot be entertained, he contended.

11. I have considered the submissions made by both sides and have perused the materials placed on record.

12. The first contention of the learned counsel for the petitioner is that, a civil suit has already been filed in the year 2014 admittedly by the 3rd respondent, where the very same documents which are in question have already been questioned for seeking a declaration and when the civil suit is pending, without waiting for a decision to be taken by the civil court and to get a declaration to that effect, the 3rd respondent, to establish his case, cannot invoke Section 77A of the Registration Act as parallel proceedings.

13. If this kind of parallel proceedings is permitted to go



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on at the hands of the District Registrar concerned, then the Civil Court jurisdiction would be ousted and that is not the intention of the legislature in bringing the amendment especially Section 77-A of the Act.

14. He would also submit that, the documents in question are of the year 2000 to 2012. Therefore after 12 years, unmindful of the pendency of the suit, if the complaint is given in 2022, such complaint ought not to have been entertained at this length of time by the 2nd respondent. In this context, it is the further case of the petitioner that, in such circumstances the 2nd respondent does have any jurisdiction to entertain such complaint in view of the specific instructions given by the IGR through the circular in Letter No.33760/UI/2022 dated 27.09.2022.

15. In fact this kind of arguments have been made by the respective counsels in earlier writ petitions, which have been decided by this Court recently. Some of the writ petitions,



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where I had an occasion to consider the similar plea raised by the petitioners therein, are as follows.

15 (a) In W.P.No.34486 of 2022 dated 22.12.2022, I have held as follows,

“ 10. As has been pointed out by the learned counsel for the petitioners, whether a complaint given by any third party against the alleged transactions, which according to the complainant, may be a fraudulent one or forged one and while entertaining the complaint before conducting a full-fledged enquiry as to the merits of the case, whether it should be verified by the District Registrar as to whether the issue raised in the complaint involves in a civil dispute already has been pending or had been disposed or decided by a competent Civil Court and in that case what shall be done. Though this position has not been mentioned in the provisions of the Act, subsequently the Inspector General of Registration has issued the Circular dated 27.09.2022, where he has shown the five situations based on which the difference between the enquiry to be conducted under Section 68(2) and Section 77-A of the Act have been noted. Out of the five situations, the 5th situation is that the civil dispute will not be taken for enquiry, and that would be made uniformly for both the enquiry either under Section 68(2) or under Section 77-A of the Act.



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11. However, as has been stated by the learned Government Advocate even to arrive at a said decision by the District Registrar whether there is a civil dispute involved and already there has been a Civil Court decree or judgment to that effect whether that has to be taken into account for the purpose of coming to the conclusion that, the further enquiry need not be entertained as claimed by the complainant through the complaint itself, has to be arrived at by the District Registrar only after ascertaining the prima facie facts to be projected by both sides.

12. Therefore, for the limited purpose, the District Registrar, in the considered opinion of this Court, is empowered to issue summons to the persons against whom such complaint is made under Section 77-A of the Act. Therefore if not for a full-fledged enquiry to ultimately conclude the prayer sought for in the complaint at least for deciding the issue within the meaning of clause 5 of para 13 of the Circular dated 27.09.2022, such a limited enquiry is required to be conducted by the District Registrar. Therefore, for the said purpose if summons are issued by the 2nd respondent to the persons against whom such complaint is made, here it is the petitioner, cannot be found fault with. Therefore, this Court has no hesitation to hold that, insofar as the impugned summons are concerned, it cannot be stated that it was issued without jurisdiction of the 2nd respondent and



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therefore the petitioner has to respond to the impugned summon and appear before the 2nd respondent and put forth their case.

13. In this regard, it is for the 2nd respondent to take up the case to be projected both by the complainant as well as the petitioners against whom such complaint has been given and to decide the same within the meaning of Section 77-A of the Act by taking into account of the situations mentioned in the Circular of the Inspector General of Registration dated 27.09.2022.

15(b). Following the the aforesaid judgment in W.P.No.34486 of 2022 dated 22.12.2022 in W.P.No.34794 of 2022 dated 23.12.2022, I have held as follows,

“ 8. In view of the said position taken by this Court in the said order referred to above and the petitioner is also similarly placed, this Court is inclined to dispose of this writ petition with the following order.

- The petitioner is directed to respond to the impugned summons and appear before the 1st respondent and put forth his case.*
- It is for the 1st respondent to take up the case to be*



projected both by the complainant as well as the petitioner against whom such complaint has been given and to decide the same within the meaning of Section 77-A of the Act by taking into account of the situations mentioned in the Circular of the Inspector General of Registration dated 27.09.2022.

- *Till the disposal of the preliminary issue, the status quo in respect of the property in question shall be maintained.”*

15(c). In W.P.No.1249 of 2023 dated 20.01.2023, I have held as follows,

“ 5. The power of the District Registrar under Section 77A of the Act when compared with Section 68(2) of the Act is wider, under which a detailed enquiry can be conducted by the District Registrar by giving an opportunity to both sides ie., the complainant and the persons against whom such complaint has been given and after hearing them, the documents in question has to be treated as fraudulent or bogus documents and in that case, direction can be given to the registering authority to cancel the same as bogus documents.

6. When such a power is vested with the District



Registrar from 16.08.2022 while passing the order dated 13.10.2022 still the District Registrar has only stated that there has been no scope for conducting an enquiry under Section 68(2) as against which though appeal has been filed before the Deputy Inspector General of Registration, this Court feels that, instead of giving a mandamus to the Deputy Inspector General of Registration to consider the appeal dated 21.11.2022 the matter can be remitted back to the District Registrar concerned where the District Registrar can entertain a fresh complaint to be given in this regard by the petitioner against the documents in question under Section 77A of the Act and if such a complaint is given, the same can be decided after conducting a proper enquiry within the meaning of Section 77A of the Act.

7. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- *It is open to the petitioner to give a fresh complaint under Section 77A of the Registration Act, 1908 against the persons, who, according to the petitioner, are allegedly involved in the fraudulent registration of documents which are in question.*
- *On receipt of such complaint, which would be filed by the petitioner, within a period of two weeks from the date of receipt of a copy of this order, the District Registrar, Krishnagiri shall entertain the complaint and*



after issuing notice to both the petitioner as well as the persons against whom such complaint is given, and after conducting a full fledged enquiry to that effect, orders shall be passed with regard to the veracity of the documents in question within the meaning of Section 77A of the Act within a period of 12 weeks from the date of receipt of such a complaint.

- *It is made clear that the finding given by the District Registrar in the order dated 13.10.2022 shall not be taken into account and uninfluenced by the finding given, the complaint to be given by the petitioner under Section 77-A shall be considered independently on its own merits and a decision shall be taken within a period of two weeks from the date of receipt of such a complaint.*
- *Since the District Registrar, Krishnagiri is not a party to the writ petition, Registry is directed to mark a copy of this order to the said authority for information and further action.”*

15(d) In W.P.No.2047 of 2023 dated 30.01.2023, I have held as follows,

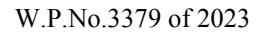
“ 8. As has been rightly pointed out by the learned Additional Government Pleader, it is the quasi judicial power vested with the District Registrar under Section 77-A of the



Act. Therefore, if at all any complaint is received by the District Registrar against any document registered against anyone who was instrumental to such registration making an allegation that it is a fraudulent or bogus document, certainly such complaint has to be entertained and after due enquiry quietus has to be given to the issue by the District Registrar concerned. Therefore, that kind of power being a quasi judicial power, by way of the recent amendment made in the Registration Act, especially under Section 77-A of the Act cannot be said to be a power which cannot be employed against the document registered in the year 2003. That kind of demarcation has never been made by the said provision of law by the legislature. Therefore, that kind of argument is liable to be rejected.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

“That there shall be a direction to the 1st respondent to proceed with the complaint given by the 2nd respondent, however, by taking into account the reply / defence given by the petitioner dated 14.11.2022 and by giving an opportunity of being heard to the petitioner as well as the 2nd respondent, and the issue raised in the said complaint can be decided by the 1st respondent within the meaning of Section 77-A of the Act within eight weeks from the date of receipt of a copy of this order.”



“ 6. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

7. As has been rightly pointed out by the learned Additional Government Pleader that, it is the statutory duty cast upon the 2nd respondent / District Registrar under Section 77A of the Act, where such a duty and power is given to the District Registrars to entertain such complaints making allegation that particular document is a fraudulent / bogus document within the meaning of Section 22-B of the Registration Act, and if so such complaint necessarily has to be entertained and after giving due opportunity to both sides and after conducting an enquiry as contemplated, then only a decision has to be taken by the District Registrar.

8. Only in that direction, the impugned summons have been issued as an initial step to the petitioner directing the petitioner to file his reply / defence along with supporting documents in support of his case and when that summons has been issued on 08.12.2022, the same has now been questioned by the petitioner. The three grounds on which the petitioner



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challenges the impugned summons have been indicated herein above.

9. However, this Court feels that insofar as those three grounds / reasons urged by the learned counsel for the petitioner are concerned, all these grounds can be agitated before the 2nd respondent and if these issues are specifically agitated before the 2nd respondent by way of written submission or written reply to be given by the petitioner, the same shall be objectively considered by giving fair opportunity of being heard to both sides by the 2nd respondent District Registrar and thereafter a decision can be made on merits and in accordance with law within a time frame and that would meet the ends of justice.

10. In view of the above, this Court is inclined to dispose of this writ petition with the following order.

- It is open to the petitioner to file a written submission or reply with supporting documents raising proper defence or reply to the three reasons stated herein above.*
- If any such reply is filed with supporting documents, the same shall be considered objectively by the 2nd respondent and after giving a fair opportunity of being heard to the petitioner as well as the 3rd respondent who*



is the complainant, a decision can be taken by the 2nd respondent on the complaint given by the 3rd respondent against the petitioner pertaining to the documents in question, on merits and in accordance with law within a period of twelve (12) weeks thereafter.

16. All the grounds raised by the learned counsel for the petitioner in this writ petition have already been raised in those cases, which have been answered accordingly.

17. Moreover, as has been rightly pointed out by the learned Special Government Pleader, it is the statutory power under which quasi judicial power is vested with the District Registrar under Section 77-A of the Act to entertain the complaint from any aggrieved party against the documents, which according to the complainant, have been registered by the concerned registering authority against the import of Section 22-A and 22-B of the Act. Having entertained such complaint, necessarily the District Registrar has to give an opportunity of being heard to both parties viz., the



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complainant as well as the persons against whom such complaint has been given. Only after giving such opportunity of hearing to both parties, the District Registrar has to take a decision as to whether the complaint has got any substance to go further and accordingly a decision can be taken by the District Registrar.

*18. Insofar as the parallel proceedings theory as projected by the learned counsel for the petitioner is concerned, suit could have been filed by the 3rd respondent prior to the amendment made on 16.08.2022 in the Registration Act, but prior to that, the legal position was that, even a genuine person whose property is meddled with by way of fraudulent / bogus documents, to redress such grievance, he/she had to approach the civil Court to seek remedy and this has been fortified by the Full Bench judgment of this Court reported in **2011 (2) CTC 1, (Latif Estate Line India Ltd -Vs- Hadeeja Ammal)** as well as the judgment of the Hon'ble Supreme Court in **Sathya Pal Anand Vs. State of Madhya***



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Pradesh and others reported in (2016) 10 SCC 767. However, that position is completely changed in view of the amendment having been made and Sections 22-A, 22-B, 77-A and 77-B have been inserted in the Statute Book and the same were given effect from 16.08.2022.

19. After 16.08.2022, it is for the aggrieved party to invoke Section 77-A of the Act to give a complaint unmindful of the civil suit which has already been filed and is pending between the parties before the concerned civil Court. The right of the aggrieved party to go before the District Registrar invoking Section 77-A of the Act cannot be taken away or denuded merely because a civil suit is pending. Hence, the first argument made on behalf of the petitioner is liable to be rejected and accordingly it is rejected.

20. Insofar as the second argument that the circular issued by the IGR in Letter No.33760/UI/2022 dated 27.09.2022 does not contemplate any such circumstance in



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respect of the documents which are in question to entertain such complaint and to enquire the matter is concerned, this Court has already held in number of cases that, the circular issued by the IGR shall only be supplementary to the provisions of the Act and shall not have the supplanting effect on the provisions of the Act. If the Act contemplates a particular procedure to be adopted by the authority who is vested with the power of quasi judicial nature, such power cannot be denuded by any executive authority much less the Inspector General of Registration (IGR). Therefore, the IGR's circular in Letter No.33760/U1/2022 dated 27.09.2022 cannot be termed as an exhaustive one and under which alone the District Registrar cannot be expected to act by exercising the power under Section 77-A of the Act. Therefore, that argument also made on behalf of the petitioner is to be rejected and accordingly it is rejected.



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21. *In that view of the matter, this writ petition is*

disposed of with the following order.

- *That it is open to the petitioner to give reply with necessary documents to the 2nd respondent District Registrar, pursuant to the impugned summons dated 19.01.2023 within two weeks from the date of receipt of a copy of this order.*
- *Once such a reply as well as defence is given with documents, if any, by the petitioner, the same shall be considered and decided, of course by giving an opportunity of being heard to both the petitioner as well as the 3rd respondent complainant and accordingly the issue raised in the complaint given by the 3rd respondent shall be decided on merits and in accordance with law within the meaning of Section 77-A of the Act within a period of 12 (twelve) weeks thereafter.*

22. *With the above directions, this writ petition is disposed of. No costs.*

21. The orders referred to above, which were earlier orders, also have been relied upon or extracted, which would give a complete answer to the grounds now urged by Mr.P.R.Thiruneelakandan, learned counsel appearing for the petitioner.



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22. Insofar as the judgment, i.e., **[CDJ 1960 SC 348]** is concerned, no doubt, it is a settled proposition that, where an amendment affects vested rights, the amendment would operate prospectively unless it is expressly made retrospective. Absolutely, there is no quarrel in this proposition. Here, who is the affected party is the question. The person, who hold the property or have been the genuine owner, lost his property at the hands of fraudsters is the real affected party. In order to save their interest and their Right to Property, this amendment has been brought in after much long deliberation with the wisdom of the State Legislature.

23. Those against whom such complaints had been given cannot be stated to be the affected parties, because, if the complaint is in-genuine and the person against whom such complaint has been given is having a valid title and the transaction is not a fraudulent transaction, to substantiate such contention, the person who received such complaint at the hands of the District Registrar concerned can very well put forth their case by appearing before them, for which alone, this kind of summons are being issued by the District Registrars concerned.

24. Like that, the learned counsel has relied upon the order passed by a learned Judge of this Court in **[CDJ 2022 MHC 9032]** dated 16.12.2022 in the



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matter of ***N.Chinnasamy Vs The District Registrar (Administration) and Ors.***,

where, he relied upon paragraph 7 and argued that, when the document is executed by the person claiming a property which is not his, he is not claiming that he is someone else nor he is claiming that he is authorized by someone else, therefore, execution of such document is not execution of false documents as defined under Section 464 of the Code. This has been heavily relied upon by the learned counsel appearing for the petitioner.

25. In paragraph 9 of the said order, the learned Judge has held that, for every complaint, the Revenue Authority cannot annul the document, except the documents which are registered and fall within the ambit under Section 22A and 22B of the Registration Act. In respect of other documents, the authorities have no role whatever to conduct the enquiry to cancel the document.

26. Absolutely there is no quarrel in this principle also, because, whether the document is a genuine document or fraudulent document is to be first ascertained, then only whether the document is to be declared as fraudulent one or not and consequentially to annul the document or not also can be decided.



27. For the purpose of deciding the document as a genuine document or not, naturally, the District Registrars, under whom the power is now vested under Section 77A of the Act, has to conduct an enquiry. Unless the District Registrar conducts an enquiry, he cannot come to a conclusion that the document is a fraudulent one or in-genuine one merely at the face of the complaint given by the aggrieved party. The Registrar cannot come to the conclusion that the document in question can be treated as fraudulent one, unless the person against whom such complaint is given or the beneficiary of the transaction, against whom such complaint is given, is given an opportunity of being heard. This is the principle of natural justice to be followed in any Quasi-Judicial proceedings. Therefore, since the proceedings under Section 77A is also a Quasi-Judicial proceedings, such procedure of issuing summons to persons against whom such a complaint has been given is correct, as it is an accepted norm and procedure, without which, the District Registrar cannot conclude the enquiry.

28. Therefore, the summons issued in this regard cannot be doubted and based on the summons issued by the Registrar, it cannot be termed that the Registrar has got a predetermined notion and it cannot also be stated that the Registrar does not have the jurisdiction.



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29. In the Court of law, so far, it has not been declared that the Registrars do not have the jurisdiction to enquire the matter when a complaint has come within the meaning of Section 77A of the Act. The intention of the Legislature is to conduct an enquiry on any complaint proceeded by the aggrieved party and unearth the truth, under which, if the document is considered to be an in-genuine one or fraudulent one, by recording detailed reasons after such an enquiry and by giving opportunity to both sides, the document can be declared as fraudulent document.

30. It is to be noted that these kinds of exercise, to declare a particular document as fraudulent or bogus document, is already available under the Registration Act in the existing provision, viz., Section 68(2) of the Act. Therefore, the power now vested under Section 77A is some added / extended power. It would be Quasi-Judicial action to consequently give a direction to the Registering Authority to cancel those documents which have been declared as fraudulent document.

31. Hitherto, that is prior to amendment, such cancellation power is not



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vested with the Registering Authority and for that purpose, even though, the genuine owner, was able to get a declaration from the Registering Authority that the particular document is an in-genuine document, still he has to go before the Civil Court to file a suit and declare the document as in-genuine and cancel the same. That kind of process by relegating the parties, that is the genuine persons, to the Civil Court will be an injustice to the society at large. Therefore, the Legislature, in their wisdom, thought it fit to bring this Legislation, of course on the suggestion made by this Court. Hence, the power being exercised by the District Registrar under Section 77A of the Act and further power by way of an appeal being exercised by the Inspector General of Registration under Section 77B is a Quasi-Judicial power. Therefore, such Quasi-Judicial power cannot be denuded or taken away or the authorities cannot be said to be without any jurisdiction to exercise such power. If that kind of declaration is made or if the Court interfere with the Quasi-Judicial functions of the Authorities, to whom such power is vested by the Legislation, then, it would amount to restraining the statutory authority from exercising his Quasi-Judicial power and that kind of exercise by way of issuance of writ under Article 226 would not be undertaken by the Courts of Law.



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32. Therefore, for all these reasons, which have been stated herein above, this Court feels that the petitioner has not made out any case to quash the impugned summons.

33. But, at the same time, the petitioner is entitled to get a copy of the complaint as well as the documents, if any, relied upon by the complainant / second respondent. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That there shall be a direction to the first respondent / District Registrar to provide a copy of the complaint as well as the documents relied upon by the second respondent / complainant against the petitioner and on supplying the copies, two weeks' time shall be given to the petitioner to put forth his case by way of defence, for which, the date can be mentioned. On that date, without fail, the petitioner or his representative shall appear before the first respondent and make all his defence with evidences in support of the documents in question;



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(ii) On receipt of such reply as well as the evidences, if

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any, from the petitioner, by giving an opportunity of being heard to the petitioner as well as the complainant, an ultimate decision shall be taken by exercising his powers under Section 77A of the Act by the first respondent within a period of eight weeks thereafter.

34. With these directions, this writ petition is disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index: Yes/No

14.02.2023

Neutral Citation :Yes/No

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Note: Issue order copy on 20.02.2023

To

1. The District Registrar (Administration)
Office of the District Registrar
No.4/36, Lalkhan Street
Chidambaram – 608 001.



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R. SURESH KUMAR, J.

(drm)

W.P.No.3379 of 2023 and
W.M.P.No.3450 of 2023

14.02.2023