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W.P.No.7370 of 2023 & WMP No. 7452 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2023

CORAM:

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**

**W.P.No.7370 of 2023**  
**& WMP.No7452 of 2023**

SP.Vairavan  
S/o Late VE.Subbaiah

...Petitioner

**.Vs.**

1. The Inspector General of Registration,  
No.100 Santhome High Road,  
Chennai 600028

2. The District Registrar,  
Office of the Sub Registrar of Tenkasi,  
Tenkasi -627811

3. R.Pankajam @ Pankaj Ammal

4. Great Lakes Multistate Co-operative Housing society Limited  
Rep. By Chief Promoter, Mr.S.Sakthivel  
20/1, Park Street,  
Indira Nagar, Kutrallam 627 802  
Tenkasi Taluk, Tirunelveli District

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondent to dispose of the complaint dated 01.12.2022 filed by the petitioner under Section 77A of the Resignation Act, 1908 as amended by the Registration (Second Amendment)



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Act 2021, seeking to cancel the sale deed dated 17.05.2013 registered as Document No.853 of 2013 before the 2<sup>nd</sup> respondent, in accordance with law within a time to be stipulated by this Court.

For Petitioner : Mr. N. Ramakrishnan

For Respondents : Mr. Yogesh Kannadasan  
Spl. Govt. Pleader for R1 to R2

### **ORDER**

Heard the learned counsel for the petitioner and Mr. Yogesh Kannadasan, learned Special Government Pleader who accepted notice on behalf of respondents 1 and 2.

2. Considering the nature of relief sought for in this writ petition, notice to respondents 1 to 4 is dispensed with. With the consent of both sides counsel, the writ petition is disposed of as under at the admission stage itself.

3. The averments in the writ petition is that the petitioner along with 4 others collectively purchased the lands comprised in Survey No.16/18A, Alandur Village, Alandur Taluk, Chennai District admeasuring Ac.0.50 cents. The petitioner along with co-owners have been in joint possession and enjoyment of the said property since the date of purchase. They deposited the



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original title deeds with Indian Bank to enable some of their group companies to avail financial facilities in the year 1995. Thereafter, since the borrower companies have failed to repay the said loans to Indian Bank, SARFAESI proceedings against the said properties were initiated and physical possession had been taken. Subsequently, Indian Bank assigned the debt in favour of Asset Reconstruction Company (India) Limited, Mumbai (ARCIL) in the year 2007. ARCIL obtained decrees from DRT-II, Chennai as against the borrower companies and Mortgagers including the petitioner herein.

4. It is further averred in the writ petition that one R.Pankajam @ Pankajam Ammal, 3<sup>rd</sup> respondent herein, claiming to be the wife of one Ramasamy Reddiar falsely claimed title over the said lands comprised in Survey No.16/18A admeasuring Ac.0.50 cents and had conveyed the same in favour of one M/s.Great Lakes Multistate Cooperative Housing Society Limited, represented by one Mr.Sakthivel, 4<sup>th</sup> respondent herein, under the sale deed dated 17.05.2013, registered as Document No.853 of 2013 before the Sub Registrar of Tenkasi, the 2<sup>nd</sup> respondent herein.

5. The petitioner submits that even though the said properties situate at



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Alandur Village, Chennai, the sale deed was registered at Tenkasi, jointly with another unconnected property situate in Puliur Village, Tenkasi Taluk belonging to a total stranger named J.Selvaraj.

6. The petitioner would further state that the said sale deed would show that the market value of the property of Puliur Village, Tenkasi Taluk described in Schedule-A therein is shown as Rs.69,174/- while the market value of the property in Alandur Village described in Schedule-B is Rs.50 lakhs. The said sale deed has been registered as Document No.853 of 2013 before the Sub Registrar of Tenkasi, 2<sup>nd</sup> respondent herein.

7. The petitioner avers that the said R.Pankajam @ Pankajam Ammal/3<sup>rd</sup> respondent had no title to the said property and she had executed the sale deed based on a fabricated “Enjoyment Certificate” purportedly issued by an office titled as “Udhavi Aanayar Aluvalagam” at Thiruvannamalai on 20.06.1969 certifying that she is the wife of one Ramasamy Reddiar, the only son of Devarajulu Reddiar. According to the petitioner, the said enjoyment certificate is nothing but a false fabricated document since there were no such office functioning in Thiruvannamalai in



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the year 1969 and only the office of Assistant Settlement Officer was established in Thiruvannamalai in the year 1974.

8. The petitioner would state that the said R.Pankajam has no other document to prove her title and she had conveyed the property only by the petitioner and other co-owners, comprised in Survey No.16/18A admeasuring Acre 0.50 cents to the said M/s.Great Lakes Multistate Coopertive Housing Society Ltd., the 4<sup>th</sup> respondent herein.

9. The petitioner states that after recent amendment of Section 77A of the Registration Act 1908 by the Registration (Second Amendment) Act 2021 empowers the 1<sup>st</sup> and 2<sup>nd</sup> respondent to cancel a false and fabricated sale deed or document registered before the Registering Authorities. As such, the petitioner along with other co-owners had lodged a complaint dated 01.12.2022 before the 1<sup>st</sup> and 2<sup>nd</sup> respondents. The petitioner along with other co-owners submitted the necessary annexures and documentary evidence in support of the complaint. However, the 1<sup>st</sup> and 2<sup>nd</sup> respondents have not taken any steps to enquire upon the complaint submitted by the petitioner and others and no enquiry has been called for by the 1<sup>st</sup> and 2<sup>nd</sup> respondents till date.



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10. The petitioner would submit that he is put to great hardship and suffering because of undue delay on the part of the 1<sup>st</sup> and 2<sup>nd</sup> respondents in commencing the enquiry into the matter based on the complaint dated 01.12.2022. Therefore, he approached this court, for a direction to the respondents 1 and 2 to dispose of the complaint dated 01.12.2022, within the time stipulated by this court.

11. The learned Special Government Pleader appearing for respondents 1 and 2 would submit that eight weeks time limit may be given to the respondents 1 and 2 to consider the complaint of the petitioner dated 01.12.2022 and call for enquiry and pass necessary orders.

12. Taking into consideration the nature of relief sought for in this writ petition and also looking into the averments made in this writ petition, this court is of the considered opinion that a duty is cast upon the Statutory Authority viz., respondents 1 and 2 to consider the complaint dated 01.12.2022 on its own merits and pass appropriate orders.



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13. In such view, without going into the merits of the claim of the petitioner, there shall be a direction to the first and second respondents herein to consider the petitioner's complaint dated 01.12.2022, call for enquiry and after hearing the necessary parties involved in the complaint, pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

**10.03.2023**

Index:Yes/No  
dsa/nvsri  
To

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**J.NISHA BANU,J.**

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