



W.P.No.23922 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23922 of 2023

1.K.S.Rani
2.T.Kalaivani

...Petitioners

Vs.

1.The District Registrar,
District Registrar Office,
Rengampalayam,
Erode District.

2.The Sub Registrar,
Sub Registrar Office, Bhavani,
Bhavani Taluk,
Erode District.

3.Kuppammal

4.K.Ramu

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to pass appropriate order on the petitioner representation dt.10.04.2023 and cancel the Sale Deed Document No.103/2011 dt.19.01.2022 on the file of the 2nd respondent.



W.P.No.23922 of 2023

For Petitioners : Mr.A.K.Samy

For Respondents 1 & 2 : Mr.D.Ravichander,
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the first respondent to pass appropriate orders on the petitioner's representation dated 10.04.2023 and cancel the Sale Deed dated 19.01.2011 in Document No.103/2011 on the file of the second respondent.

2. The petitioners submitted a complaint under section 77A of the Registration Act to cancel the sale deed dated 19.01.2011 vide document No.103 of 2011.

3. In respect of the documents registered prior to the insertion of Section 77A in the Registration Act, the parties have to approach the competent civil court of law. The amendment has been made prospectively and therefore, the documents registered long before cannot be cancelled in exercise of powers conferred under section 77A of the Act.



W.P.No.23922 of 2023

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4. The principles in this regard were considered by this court in W.P.No.19239 of 2023 dated 25.07.2023 and the relevant paragraphs are extracted hereunder:

“4. Without going into the allegations of fraud or impersonation, this Court has to consider the repercussions in the event of conducting summary proceedings for the purpose of cancelling the documents registered long back. The amendment was made under the Tamil Nadu Act 41 of 2022 with effect from 16.08.2022 and accordingly, Section 77A was inserted. The provision is ambiguous with reference to its retrospective application. The consequence of retrospective application is to be considered by the Courts. If unguided powers are provided to the District Registrars to cancel the documents, irrespective of the time of registration, the same would result in an anomalous situation where the documents registered several decades back also may be the subject matter for cancellation under Section 77A of the Act.

5. The legislative intention of the amendment and insertion of Section 77A in the Act would not confer



powers for its retrospective application, so as to cancel the documents registered several decades back. All those documents which were registered long years back were governed under the provisions of the Act and those documents were either subjected to civil proceedings before the Civil Court of law or criminal proceedings or otherwise.

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9. Therefore, necessarily, the Court has to form an opinion that in respect of the documents falling under Section 22B of the Act, if sought to be cancelled, then the Registrar is empowered to cancel the documents under Section 77A of the Act. In respect of other documents registered prior to the amendment, one has to understand that those documents are to be dealt in accordance with the law prevailing at the time of registration either by approaching the Civil Court of law or otherwise. When all those documents registered prior to the amendment of the year 2022 are subjected to Section 77A of the Act, then this Court is afraid that an anomalous situation would be created by approaching the District Registrar for the purpose of adjudication of disputed issues with reference to those documents registered several years back. The



amendment effected from 16.08.2022 has not intended to do so nor the provision expressly provides any such retrospective application. Prior to amendment, Section 22A and Section 22B was not in force. Thus, Section 77A cannot have retrospective effect. In other words, Section 77A must be read in conjunction with Section 22A and Section 22B of the Act. Insertion of all these three Sections are to be understood holistically to avoid any inordinance.

10. Article 59 of the Limitation Act, 1963 stipulates that, to cancel or set aside any instrument or decree for rescission of a contract, the period of limitation is three years. Therefore, even for setting aside an instrument or a decree or for rescission of a contract the period of three years has been contemplated under the Limitation Act, the documents registered several years back or decades back cannot be the subject matter for cancellation of those documents under Section 77A of the Act.

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14. In the present Writ Petition, disputed issues exist between the parties. Even the second respondent herein was a party respondent in yet another Writ



W.P.No.23922 of 2023

Petition filed by one Mr.T.Arockia Dass in W.P.No.754 of 2023, wherein this Court passed an order on 10.01.2023. Therefore, the dispute between the parties cannot be resolved by way of summary proceedings under Section 77A of the Act. Normally, amendments under the Statutes are intended for prospective effect, unless retrospective effect has been expressly made under the amendment. Presumptive retrospective implementation of the amendments in the Statutes would cause larger repercussion and would result in disastrous consequences. Lakhs and lakhs of documents registered prior to the amendments will be placed for adjudication before the Registrar to cancel those documents on personal or on varieties of reasons. Therefore, in the absence of any specific provision to implement the amendment retrospectively, the power conferred through amendment is to be exercised with prospective effect with reference to the documents registered subsequent to the amendment and insertion of Sections 22A, 22B and 77A of the Act. Thus, the petitioner as well as the complainant in the present case have to redress their respective grievances before the competent Civil Court of law.”



W.P.No.23922 of 2023

5. In view of the judgment cited supra, the petitioners are at liberty to approach the competent civil court of law for the purpose of establishing their case in the manner known to law.

6. With this liberty, the writ petition stands disposed of. No costs.

14.08.2023

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Index: Yes

Speaking Order

Neutral Citation: Yes



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W.P.No.23922 of 2023

To

- 1.The District Registrar,
District Registrar Office,
Rengampalayam,
Erode District.
- 2.The Sub Registrar,
Sub Registrar Office, Bhavani,
Bhavani Taluk,
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W.P.No.23922 of 2023

S.M.SUBRAMANIAM, J.

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W.P.No.23922 of 2023

14.08.2023