



WEB COPY

W.P.No.25119 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25119 of 2023

and

W.M.P.Nos.24548 and 24549 of 2023

1.Mali Singh

2.S.Veeriah

3.Balachander

4.T.Ganesh Skanda

5.Karthik Seetharaman

6.Suresh Thiyagarajan

7.Navaneetha Krishnan

8.T.Shanthi

... Petitioners

Vs.

1.The District Registrar,
Chennai South Registration District,
District Registrar (Administration) Office,
Ground Floor,
Combined Commercial Tax and Registration Building,
Veterinary Hospital Road,
Fanapet, Nandanam, Chennai – 600 035.



2.M/s.Tamil Nadu Chemists and Druggists Educational Trust,
Represented by its Executive Trustee Mr.K.K.Selvam,
No.1 & 2/305, Rajiv Gandhi Salai,
Thoraipakkam, Chennai – 600 097.

3.Tangirala Infrastructure Development Private Limited,
Registered Office at No.7-21, Sakthi Garden,
DB Jain College Hostel Road, Thoraipakkam,
Chennai – 600 096.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to complaint dated October 2022 filed by the 2nd Respondent in Proceedings No.20548/E2/2022 and consequential notices dated May 2023 and 24.07.2023 in Proceedings No.20548/E2/2022 issued by the 1st Respondent and quash the same.

For Petitioners : Mr.Sai Srujan Tayi

For Respondent 1 : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

The show cause notice issued to the writ petitioners under section 77(A) of Registration Act is under challenge in the present writ petition.



2. The petitioners state that the 2nd respondent filed a complaint before the District Registrar, Chennai South to cancel the documents registered in the year 2005. The said complaint was entertained and notice was issued to the petitioners.

3. The learned counsel for the petitioners state that the amendment made under section 77(A) cannot be applied retrospectively so as to cancel the documents which have been registered prior to the amendment. In the event of entertaining such complaints to cancel the documents registered long before, the same would result in anomalous situation and therefore, the notice is liable to be set aside.

4. No doubt, there is no scope for applying the amended provision under section 77(A) of the Registration Act with retrospective effect. In the absence of any expressed provision under the Act, the documents registered prior to the amendment cannot be cancelled by conducting summary proceedings. However, these issues are to be adjudicated on merits and by verifying the records.

5. The present writ petition has been filed challenging the show cause notice. Mere issuance of show cause notice would provide no cause to the



petitioners to file a writ petition. A writ petition is entertainable against the show cause notice, only if it is issued by the incompetent authority having no jurisdiction or tainted with the allegations of malafides.

6. All the legal and factual grounds may be raised by the petitioners before the competent authority for the purpose of considering the issues. Contrarily, the High Court need not go into the merits in advance for the purpose of giving a finding, since in such circumstances, the other side who gave the complaint would be prejudiced. Therefore, the petitioners are at liberty to raise all the factual and legal grounds before the District Registrar concerned for the purpose of conducting an enquiry and pass final orders.

7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.08.2023

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Index : Yes

Speaking order



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To

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S.M.SUBRAMANIAM, J.

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