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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P No.25282 of 2023 and
W.M.P.No.24695 of 2023

Poongodi

...Petitioner

Vs.

The District Registrar ,
Registration Department,
Collecotrate Office Complex,
Coimbatore.

...Respondent

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 the impugned notice in Na.Ka.No.303/Aa5/2023 dated 11.08.2023 issued by the respondent and quash the same.

For Petitioner	: Mr.M.Suresh Viswanathan
For Respondent	: Mr.T.Arun Kumar Additional Government Pleader

ORDER

The present writ petition has been filed to quash the impugned notice of the respondent in Na.Ka.No.303/Aa5/2023 dated 11.08.2023.

2. The settled principles of law by the constitutional Courts can be presented for the purpose of defending the case by the aggrieved persons



in an enquiry proceedings. Since because a legal proposition has been settled by the constitutional courts, the same would not provide a cause for challenging the show-cause notices issued by the competent authority under the Act for the purpose of conducting an enquiry. No doubt this Court has considered the scope of retrospective application of Section 77-A of the Registration Act, 1908 and held that documents registered and executed prior to the amendment of Section 77-A of the Act cannot be cancelled since at the time of execution of those documents, there was no provision under the Registration Act to cancel the documents. Section 77-A of the Act can be applied prospectively to cancel the documents registered fraudulently or by way of impersonation.

3. Question arises whether every show-cause notice issued by the District Registrar under Section 77-A of the Act is to be interfered with by the High Court in a writ proceeding under Article 226 of the Constitution of India. Show-cause notice *per se* would not provide a cause for filing a writ petition. A writ against a show-cause notice may be entertained only if such notice is issued by an incompetent authority having no jurisdiction or tainted with the allegations of *malafides*. Even in case of allegation of malafides, the Authority against whom such an allegation is raised must be impleaded as party respondent in his personal



capacity. In all other circumstances, the person who received such show-cause notice is expected to defend his case by appearing before the competent authority, who is empowered to conduct an enquiry by following the procedures as contemplated under the Act and Rules.

4. Therefore, by relying on the ground that Section 77-A of the Registration Act cannot be applied retrospectively so as to cancel the documents registered prior to the amendment, show-cause notices cannot be quashed by the High Court. There may be several other possible grounds for the purpose of interference under the provisions of the Act or Rules or on various other reasons. By quashing the show-cause notice on the single ground of retrospective application of Section 77-A, the Court cannot cause prejudice to the interest of the other parties for adjudication of other grounds raised in the complaint or in the defence statement by the opposite parties. An aggrieved person may raise several grounds for the purpose of cancelling the documents. Nibbing the bud may cause prejudice to either of the parties. Thus, the proceedings initiated must be allowed to be completed by following the procedures. Parties are entitled to get an opportunity to defend their respective cases. Therefore, entertaining a writ petition against the show-cause notices are not preferable more specifically when the power of adjudication conferred on



the District Registrars are quasi-judicial in nature.

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5. The parties are at liberty to raise both factual and legal grounds and entitled to present documents for the purpose of considering their cases. While so, High Court need not adjudicate such issues nor quash the show-cause notice merely on one ground or otherwise. Such writ petitions are to be construed as premature and the High Court need not usurp the powers of the enquiring officials but allow such officials to conclude the proceedings in all respects in accordance with the provisions of the Act and Rules. Thus, the petitioner is at liberty to submit his defence statement along with the legal grounds and the judgments for the purpose of conducting an enquiry as contemplated under the Act.

6. The learned Additional Government Pleader brought to the notice of this Court that the enquiry proceedings has already been commenced based on the direction issued by this Court in the writ proceedings. Therefore, the said enquiry must be completed in all respects on merits and in accordance with law.

With these observations, the present writ petition is dismissed. No costs.

28.08.2023



Index : Yes

Speaking Order

Neutral Citation Case : No

gpa/gvn

To

1. The District Registrar,
Registration Department,
Collecotrate Office Complex,
Coimbatore.
2. The Government Pleader,
High Court of Madras.



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S.M.SUBRAMANIAM, J.

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