



WEB COPY

W.P.No.25364 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 25364 of 2023
and W.MP.No. 24770 of 2023

Manikandan

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar,
Salem (West),
No.313, 3rd Floor,
District Collectorate Complex,
Salem District.

2.The Sub Registrar,
Office of the Sub Registrar,
Magudanchavadi,
Salem District.

3.Rajamanickam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the Impugned Notice issued by the 1st respondent in his proceedings in Letter No. 7029/E4/2023 dated 14.08.2023 purportedly issued under section 77A of



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Registration Act and quash the same.

For Petitioner : Mr. J.Jayan

For Respondents 1 and 2 : Mr. T.Arun Kumar,
Additional Government Pleader.

ORDER

The enquiry notice dated 14.08.2023 issued by the District Registrar under Section 77A of the Registration Act is sought to be quashed in the present writ petition.

2. A writ against an enquiry notice is not entertainable, unless the notice has been issued by an incompetent authority having no jurisdiction or tainted with the allegations of malafides.

3. In the present case, the learned counsel for the petitioner mainly contended that the scope of section 77A of the Act cannot be expanded for the purpose of cancelling the documents which were registered and executed long before the amendment made under section 77A of the Registration Act. In this regard, the learned counsel for the petitioner relied on the Judgment of this Court.



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4. No doubt, section 77A of the Registration Act does not speak about its retrospective applicability. However, mere notice of enquiry would not provide a cause for adjudication of such legal issues which can be otherwise presented by the petitioner before the competent authority. There may be several other grounds between the parties which are also to be adjudicated on merits. If the enquiry notice itself has been quashed merely on one ground, the other parties are deprived of adjudicating the grounds raised by them in the complaint or in the defence statement, as the case may be. Thus, the enquiry commenced must be allowed to go on for the purpose of completing the adjudication of issues and only if an order is passed, an aggrieved person may approach the appellate authority or the Court, as the case may be.

5. Thus, in the event of quashing the enquiry notice, the same would cause prejudice to the interest of the other parties to adjudicate the issues raised in their petition. Thus, the petitioner is at liberty to submit his defence statement along with the documents as well as the judgments relied on by him, enabling the District Registrar to conduct an enquiry as contemplated under section 77A of the Registration Act and pass appropriate orders on



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merits and in accordance with law.

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6. Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.08.2023

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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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