



WEB COPY

W.P.No.257



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25739 of 2023

and

W.M.P.No.25170 of 2023

1.C.R.Thirupathi Gounder
2.Mrs.Palaniyammal
3.N.Sivan

... Petitioners

Vs.

1.The District Registrar (Audit),
Krishnagiri.
2.Mrs.Rajammal
3.S.Selvam
4.Smt.Parimala

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.Ka.No.8677/VU/2021 dated 31.07.2023 passed under Section 77-A of the Registration Act and quash the same and direct the 1st respondent to restore the registration.

For Petitioners	: Mr.V.Prakash, Senior Counsel for MrJ.Bharathi Raja
For R1	: Mr.T.Arunkumar, Additional Government Pleader
For R2	: Not ready in notice
For R3 & R4	: Mrs.R.Poornima



WEB COPY

W.P.No.257



ORDER

The writ on hand has been instituted challenging the order passed by the 1st respondent in proceedings dated 31.07.2023 under Section 77-A of the Registration Act.

2. The petitioners state that they are the absolute owners of the property as described in the writ proceedings. The petitioners purchased the properties by verifying the records and the respondents 2 to 4 had submitted a complaint under Section 77-A of the Registration Act to cancel the Sale Deed executed in favour of the writ petitioners in the year 2018 and 2021. The District Registrar had conducted an enquiry and cancelled the Sale Deed executed in favour of the writ petitioners. Thus, the present Writ Petition is filed.

3. The learned Senior Counsel appearing on behalf of the writ petitioners mainly contended that the documents, which were registered prior to the Tamil Nadu Amendment Act, 41 of 2022 cannot be subjected for cancellation by exercising the powers with retrospective effect. In such circumstances, the parties have to approach the competent Civil Court of law.



WEB COPY

4. In the present case, the parties have already instituted a Civil Suit in O.S.No.5 of 2022 on the file of the District Munsif Court, Krishnagiri. This being the factum, the impugned order is liable to be set aside.

5. The learned Additional Government Pleader appearing on behalf of the 1st respondent made a submission that the documents which all are the subject matter of the complaint filed by the contesting respondents were found to be fraudulent and therefore, the District Registrar in exercise of powers conferred under Section 77-A of the Registration Act and therefore, there is no infirmity and the Writ Petition is to be rejected.

6. The principles in this regard are to be considered by this Court in the case of ***T.S.T.Kaznavi -vs- the District Registrar*** in W.P.No.19239 of 2023 dated 25.07.2023 and the relevant paragraphs are extracted below:-

“ 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 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 77-A 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.”

7. The Deputy Registrar are not empowered to cancel the documents, which were registered prior to the amendment and insertion of Section 77-A of the Registration Act. There is no express powers conferred under Section 77-A of the Registration Act to exercise the powers with retrospective effect and that being the scope of the amendment, the power confirmed by the District Registrar is untenable and therefore, the consequential impugned order is liable to be set aside.

8. The parties in the present case have already instituted a Civil Suit in O.S.No.5 of 2022 and in the said Suit, they can raise their allegations for the purpose of declaring the document as null and void or otherwise.



W.P.No.257



WEB COPY

9. In view of the facts and circumstances, the impugned order passed by the 1st respondent in proceedings in Na.Ka.No.8677/Vu/2021 dated 31.07.2023 is quashed and accordingly, the Writ Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.09.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

The District Registrar (Audit),
Krishnagiri.



WEB COPY

W.P.No.257



S.M.SUBRAMANIAM, J.

skr

W.P.No.25739 of 2023

26.09.2023