



W.P.No.27005 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27005 of 2023

and

W.M.P.No.26430 of 2023

1.Mr.Ajahir Hussain

...Petitioner

Vs

1.The District Registrar (Administration),
Ariyalur,
Ariyalur District.

2.The Sub-Registrar of Registration,
Udayarpalayam & Post,
Ariyalur District.

3.Tmt.Najira Begum

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare the proceedings initiated by the first respondent pursuant to the notice in Na.Ka.819/A4/2022 dated 24.08.2023 is without jurisdiction and illegal and void.

For Petitioner

: Mr.S.Kamadevan

For R1 & R2

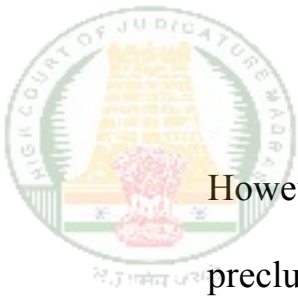
: Mr.E.Sundaram,
Government Advocate

**ORDER**

Pendency of a civil suit to declare a registered document before the Civil Court of law is not a bar for registering a complaint under Section 77A of the Registration Act (hereinafter referred to as 'the Act'). The limited scope of Section 77A of the Act cannot be compared with a trial natured adjudication to be undertaken by competent Civil Court of law for the purpose of granting relief to the parties to the Civil Suit. Therefore, the legal position in this regard need not be misconstrued in order to be misinterpreted.

2. A person aggrieved from and out of a registered document is entitled to submit a complaint before the competent authority under Section 77A of the Act, if the document was registered after insertion of Section 77A of the Act. Filing of a complaint will not preclude the aggrieved person from instituting a civil suit to establish his right or to obtain other relief in a civil suit.

3. No doubt, this Court has held that Section 77A cannot have retrospective application so as to cancel the documents registered long before the Tamil Nadu amendment and insertion of Section 77A in the Act.



However, the said retrospective application of Section 77A would not preclude authorities from considering issues raised in the complaint, if those allegations are found to be violative of the other provisions of the Act. For instance, if violations are committed under Section 32 and 68 of the Act, then a prosecution under Section 82 is permissible. Those provisions were in force even prior to the insertion of Section 77A. Therefore, the complaint is entertainable even in respect of the documents registered prior to the insertion under Section 77A, if the authorities, during the course of adjudication, found that the documents were registered in violation of the other provisions of the Act and suitable relief can be granted to the aggrieved persons.

4. Merely by raising a ground that Section 77A cannot be applied retrospectively, the entire enquiry cannot be initiated. The enquiry consists of the issues raised between the parties as a whole and therefore, this may be one of the grounds for the parties to defend their case. Therefore, quashing of the show cause notice/enquiry notice is not desirable and could not be done.



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5. No writ against a show cause notice/enquiry notice needs to be entertained, unless such notice has been issued by any incompetent authority having no jurisdiction or tainted with the allegations of malafides. In all such circumstances, the party, who receives summons from the statutory authorities, is expected to participate in the process of enquiry for the purpose of defending his case by availing the opportunity. Therefore, the authorities competent are empowered to entertain the complaint and scrutinise the same as to whether the allegations raised therein are falling under any one of the provisions of the Registration Act. If the documents are registered long before the Tamil Nadu Amendment Act dated 16.08.2022, the said ground is to be considered for the purpose of rejection of the complaint, but if other allegations are raised in the complaint relying on the other provisions of the Act, then such issues are to be adjudicated and the authorities are empowered to order for prosecution under Section 82 of the Act. Therefore, the scope of the complaint cannot be confined only with reference to Section 77A of the Act. The nature of allegations and the fraud or impersonation raised are to be thoroughly examined during the course of the enquiry by the District Registrar concerned. Even the District Registrar or the Appellate Authority cannot reject the complaint merely on the ground



that the document was registered long before the insertion of Section 77A in the Act and the other allegations are to be looked into for the purpose of conducting the enquiry.

6. In view of the above observations, the petitioner, in the present case, is granted liberty to raise all the grounds before the District Registrar concerned for the purpose of defending his case in the manner known to law. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.09.2023

Index:Yes/
Speaking order
Neutral Citation:Yes/No
hvk/dpa

To

- 1.The District Registrar (Administration),
Ariyalur,
Ariyalur District.
- 2.The Sub-Registrar of Registration,
Udayarpalayam & Post,
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