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W.P.Nos.27939, 27943, 27947 & 27949 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 22.09.2023**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.Nos.27939, 27943, 27947 & 27949 of 2023**

**and**

**W.M.P.Nos.27440, 27441, 27943 & 27448 of 2023**

**W.P.No.27939 of 2023**

Urmila Sridhar

...Petitioner

Vs

1. Inspector General of Registration,  
100, Santhome High Road,  
Chennai – 600 028.

2. The District Registrar,  
No.1/529, Nerupperichal Village,  
Pooluvapatti Post, Tiruppur – 641 602.

3. Prakash

4. Poongothai

5. Sellammal

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for



W.P.Nos.27939, 27943, 27947 & 27949 of 2023

issuance of a Writ of Certiorari, calling for the records in proceedings No.14563/U1/U6/2023 under the summons dated 05.09.2023 and quash the same.

For Petitioner : Mr.A.L.Somayaji  
Senior Counsel  
for M/.Waraon and Sairams

For R1 & R2 : Mr.T.Arun Kumar  
Additional Government Pleader

**W.P.No.27943 of 2023**

Urmila Sridhar

...Petitioner

Vs

1. Inspector General of Registration,  
100, Santhome High Road,  
Chennai – 600 028.

2. The District Registrar,  
No.1/529, Nerupperichal Village,  
Pooluvapatti Post, Tiruppur – 641 602.

3.A.Palanisamy

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in proceedings No.14558/U1/U6/2023 under the summons dated 05.09.2023 and quash the same.



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For Petitioner : Mr.A.L.Somayaji  
Senior Counsel  
for M/.Waraon and Sairams

For R1 & R2 : Mr.T.Arun Kumar  
Additional Government Pleader

**W.P.No.27947 of 2023**

Urmila Sridhar ...Petitioner

Vs

1. Inspector General of Registration,  
100, Santhome High Road,  
Chennai – 600 028.
2. The District Registrar,  
No.1/529, Nerupperichal Village,  
Pooluvapatti Post, Tiruppur – 641 602.
3. S.Ramar

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in proceedings No.14561/U1/U6/2023 under the summons dated 05.09.2023 and quash the same.

For Petitioner : Mr.A.L.Somayaji  
Senior Counsel  
for M/.Waraon and Sairams

For R1 & R2 : Mr.T.Arun Kumar  
Additional Government Pleader



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WEB CO **W.P.No.27949 of 2023**

Urmila Sridhar

...Petitioner

Vs

1. Inspector General of Registration,  
100, Santhome High Road,  
Chennai – 600 028.

2. The District Registrar,  
No.1/529, Nerupperichal Village,  
Pooluvapatti Post, Tiruppur – 641 602.

3. Sellamuthu

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in proceedings No.14562/U1/U6/2023 under the summons dated 05.09.2023 and quash the same.

For Petitioner : Mr.A.L.Somayaji  
Senior Counsel  
for M/.Waraon and Sairams

For R1 & R2 : Mr.T.Arun Kumar  
Additional Government Pleader



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### **COMMON ORDER**

The statutes or its provisions so long as remain in the statute, the competent authorities prescribed under the Act or Rules are expected to exercise the powers in the manner contemplated. The Courts cannot issue a direction not to exercise the powers conferred under any of the provisions of the Act unless such provisions or statutes has been declared as unconstitutional by the Constitutional Courts. So long as the provisions remain in the Statute Book, the authorities are bound to exercise the powers by following the procedures as contemplated.

2.As far as Sections 77A and 77B of the Registration Act are concerned, Tamil Nadu Act 41 of 2022 was passed inserting Sections 77A and 77B. However, this Court held that the powers can be exercised prospectively to cancel the document registered and in respect of the document executed long before the amendment cannot be cancelled by exercising the powers conferred under Section 77A of the Act which would result in an anomalous situation, where the persons will be attempting to



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cancel the document registered in the year 1950s, 1960s etc. The legislation also do not intend to provide retrospective power under the amended provisions of Sections 77A and 77B of the Registration Act.

3.However, the High Court need not interfere with the enquiry notices or show cause notices issued by the competent authority for the purpose of conducting an enquiry. Conducting an enquiry is an effort undertaken by the authorities to find out the facts and circumstances. Therefore, such endeavour must be allowed to go on in the interest of justice. There may be several issues between the parties, which all are to be adjudicated on merits. Therefore, High Court by quashing an enquiry notice or show cause notice based on one single ground would cause prejudice to either of the parties and further result in violation of the purpose and object sought to be achieved by conducting an enquiry. Therefore, the Constitutional Courts time and again held that no writ against an enquiry notice/show cause notice is entertainable unless such notice has been issued by an incompetent authority having no jurisdiction or tainted with allegation of malafides. All other legal grounds raised on merits are to be adjudicated before the



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authority competent since the authorities under the statutes are exercising quasi-judicial powers and therefore, adjudication on merits and principles of law is absolutely permissible.

4. In the present cases, the petitioner states that the documents which were registered prior to the amendment are sought to be cancelled. The grounds raised in this regard required an adjudication by verifying the documents in original and the evidences to be produced. Merely based on the retrospective or prospective application of the amended Act, the High Court need not quash the enquiry notice and nipping the bud would result in denial of an opportunity to all the parties to adjudicate the issues on merits.

5. The enquiry contemplated under the Registration Act is summary in nature. Therefore, the authorities are empowered to call for the records, hear the parties and pass appropriate orders.

6. The learned senior counsel appearing for the petitioner raised a ground that the first respondent issued summons on 05.09.2023 fixing the



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date of enquiry on 14.09.2023 at 3.00 p.m. Since the counsel for the petitioner held up in High Court, the junior counsel appeared before the first respondent and requested time to file reply statement. Without accepting the request, the first respondent reserved orders in proceedings dated 14.09.2023. In summary proceedings under the statute, granting adjournment is the discretion of the authority concerned. Appearance of a lawyer is an optional one and cannot be construed as mandatory. Absence of a lawyer would not provide a ground to quash the enquiry notice in the present writ petitions. Adjournments are to be granted only if the reasons furnished are genuine. Litigants are developing the practice of protracting the proceedings by seeking necessary adjournments on flimsy grounds. The authorities are not expected to yield to such request if the intention of the parties are to prolong and protract the proceedings. Therefore, refusal of adjournment would not given any right to the party to re-open the case.

7.The learned Additional Government Pleader made a submission that the Court has issued a direction to complete the proceedings within a period of eight weeks. Therefore the authorities have avoided unnecessary



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adjournment to the parties but opportunities were granted to the petitioner to file their statements. The legal notice issued by the learned counsel for the petitioner is available on record.

8. When an enquiry is taken up under the provisions of the statute, harmonious and holistic application of the provisions are of paramount importance. Even in case where the High Court issued a direction to conduct an enquiry under Section 77A of the Registration Act, the authorities are empowered to consider all the issues involved or raised between the parties with reference to the registration of the document under the provisions of the Registration Act. For instance, if there are any lapses or negligence in executing the document, the authority may exercise power under Section 68 of the Registration Act. Procedures are contemplated for registering a document. Violations if any noticed also may be considered. It is not as if the provisions under Section 77A will not permit the authorities to look into the correctness of the registration made in accordance with the Registration Act. Therefore, quashing the enquiry notice undoubtedly would cause prejudice to the interest of either of the parties and they will lose their



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opportunity to raise the issues on merits which all are to be adjudicated with reference to the documents in original and evidences. High Court cannot conduct a roving enquiry in respect of such disputed issues unless documents in original are verified. A document can be cancelled on the ground of fraud or impersonation or violation of procedures, if any, or otherwise. When the scope of the Act is wider enough to cover several issues relating to registration, the High Court need not deprive the opportunities of parties to adjudicate the issues by filing documents and evidences.

9.Contrarily the parties on receipt of enquiry notice shall produce their documents and defence statements before the authority for the purpose of establishing their case. The quasi-judicial authorities must be provided with free hand to conduct an enquiry in an impartial manner so as to form an opinion with reference to the disputed issues raised between the parties.

10.The learned senior counsel appearing on behalf of the petitioner made a submission that the petitioner will submit additional grounds on or



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before 25.09.2023. In the event of submitting any such additional documents on or before 25.09.2023 before 6.00 p.m. the said additional documents may be taken on file and thereafter, the authority is at liberty to pass final orders on merits and in accordance with law.

11. With these directions, the writ petitions stand dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

**22.09.2023**

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. Inspector General of Registration,  
100, Santhome High Road,  
Chennai – 600 028.
2. The District Registrar,  
No.1/529, Nerupperichal Village,  
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**S.M.SUBRAMANIAM, J.**

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