



WEB COPY

W.P. No.28860 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.28860 of 2023

and

W.M.P. No.28456 of 2023

Sivakumar

... Petitioner

Vs.

1. The District Registrar
Administration
Virudhachalam

2. The Sub Registrar
Ulundurpet

3. Andal

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue writ of certiorari to call for the records of the 1st respondent in his proceedings in Na.Ka.5353/Aa1/2022 dated 30.08.2023 and quash the same.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 and R2

**ORDER**

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This Writ Petition is filed for a writ of certiorari to call for the records of the 1st respondent in his proceedings in Na.Ka.5353/Aa1/2022 dated 30.08.2023 and quash the same.

2. The case of the writ petitioner is that he is absolute owner of the properties in S.No.19/2-1 acre 70 cents situated at Pu.Konalavadi Village, Ulundurpet Taluk, and he is in possession and enjoyment of the same. His father had executed a settlement deed in favour of the petitioner in respect of the said property and other properties on 23.11.2017 under document No.2573/2017 on the file of the SRO, Ulundurpet. The said property is one of the properties involved in the suit filed by his father against one Kuppusamy in O.S.No.813/1995. During pendency of the case the, the said Kuppusamy died and the 3rd respondent herein, being wife of the said Kuppusamy was impleaded as his legal representative. Against which, the petitioner's father preferred appeal in A.S.No.127/2000 on the file of the Principal District Judge, Vilupuram, and the same was allowed by Judgment dated 29.08.2001. Subsequently, the said Kuppusamy filed a second appeal in S.A.No.210 of



2005 and initially, ex-parte order was passed on 26.07.2018 and subsequently, the second appeal was heard in full and on 30.01.2023, the same was dismissed. Against which, the 3rd respondent/wife of Kuppusamy, preferred SLP before the Hon'ble Supreme Court in SLP(Civil) No.010144 of 2023. It is the contention of the petitioner that based on the ex-parte Judgment dated 26.07.2018, the 3rd respondent herein has filed a complaint to the 1st respondent to cancel the settlement deed dated 23.11.2017, executed in favour of the petitioner and based on which, the 1st respondent has issued notice for enquiry to cancel the registration made during in the year 2017. Hence, the present petition is filed.

3. The learned Special Government Pleader appearing for the respondents 1 and 2, submitted that enquiry is pending under Section 77(A) of the Registration Act, before the District Registrar/1st respondent herein.

4. The learned counsel for the petitioner submitted that the 3rd respondent was a party to the civil proceedings and further, as against the judgment of this Court, she has also preferred SLP before the Hon'ble Supreme Court and the same is also pending. In spite of the same, the 1st



respondent has issued show cause notice. The 1st respondent lacks jurisdiction. The document sought to be cancelled is of the year 2017. But the amendment under Section 77-A of the Registration Act, came into effect only from 16.08.2022 and there is no retrospective application of Section in respect of the documents registered long back. He placed reliance of the following decisions of this Court and submitted that this Court time and again insisted that the document registered before the amendment, cannot be cancelled by the District Registrar and he has no power to cancel the same.

*1. T.S.T. Kaznavi Vs. The District Registrar
and others, reported in CDJ 2023 MHC 4992*

*2. M.Revathy Vs. The Inspector General of
Registration and 11 others, in W.P.No.16999 of
2023 dated 08.06.2023*

5. Heard both sides and perused the records.

6. Taking into consideration the facts and circumstances of the case and that when the petitioner has got effective alternative remedy, the writ



petition is dismissed at the admission stage itself. The petitioner shall work out his remedy in the manner known to law. Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

06.10.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

To

1. The District Registrar
Administration
Virudhachalam
2. The Sub Registrar
Ulundurpet



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P.VELMURUGAN. J.

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