



WEB COPY

W.P.No.28437 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28437 of 2023

in

W.M.P.Nos.27989 & 27990 of 2023

1.G.Arumugam

2.G.Ponnusamy

3.S.Santosh

4.S.Manju

... Petitioners

Vs.

1. The District Registrar,
Salem (West),
Salem.

2.A.G.Balakrishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings of the 1st respondent in Letter No.7295/E5/2023, dated 25.08.2023 and quash the same.



WEB COPY

W.P.No.28437 of



For Petitioner : Mr.K.Selvaraj
For R1 : Mr.C.Jayaprakash
Government Advocate

ORDER

The enquiry notice dated 25.08.2023 is sought to be quashed in the present writ petition.

2. The petitioners received a notice in respect of the complaint given by the 2nd respondent under Section 77-A of the Registration Act to cancel the document. The petitioners instead of defending their case before the District Registrar have chosen to file the writ petition on the ground that the document was executed long before Tamil Nadu Amendment Act 41 of 2022 and therefore, the District Registrar ought not to have entertained the complaint.

3. No doubt Section 77-A of the Registration Act operates prospectively. The documents registered long before cannot be cancelled under Section 77-A of the Act, since there is no express provision granting retrospective effect to cancel the documents registered long before. However, the District registrar under the other provisions of the Registration Act are



empowered to consider the issues regarding the correctness and validity of the registration of the documents made.

WEB COPY

4. For instance, the District registrar may consider the procedure followed and the manner through which the documents are executed by invoking Section 68 of the Registration Act. Whether the procedures contemplated under Sections 32 to 35 of the Act have been followed or not. When there are multi various issues involved in the matter of registration of the documents, High Court need not quash the enquiry notice merely on a single ground or otherwise. In the event of setting aside the notice, the same would cause prejudice to the interest of the parties. The parties are deprived from adjudicating the issues on merits. On a single ground if the enquiry notice is quashed, it amounts to shutting the door to conduct an enquiry in order to cull out the truth. Therefore, the writ petition against such enquiry notices are not entertainable, unless such notice has been issued by incompetent authority having no jurisdiction are tainted with the allegations of *mala fides*.

5. The petitioners while getting an opportunity to defend their cases,



they are at liberty to submit their defence statement along with the documents for the purpose of establishing their cases. Only after passing of the final order under section 77-A of the Act, the petitioner may prefer an appeal under Section 77-B of the Registration Act and thereafter ,if aggrieved may approached the Competent Court of Law. The procedures as contemplated are to be followed and nibbing the bud would cause prejudice to the interest of the parties. Thus, the enquiry notice cannot be interfered with and the parties on receipt of enquiry notice may defend their case before the authority concerned by availing the opportunities to be provided by the competent authority.

6. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.09.2023
(1/2)

ns1/jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To



The District Registrar,
Salem (West),
Salem.

W.P.No.28437 of





WEB COPY



W.P.No.28437 of

S.M.SUBRAMANIAM, J.

ns1/jeni

W.P.No.28437 of 2023

27.09.2023
(1/2)