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W.P.No.29352 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.29352 of 2023

and

W.M.P.No.28979 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, Tirupur – 641 602.

3.S. Ramar.

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records in Na.Ka. No.14561/U1/U6/2023 dated 20.09.2023 passed by the 1st respondent and quash the same.

For Petitioner : Mr.T.Thiageswaran
for M/s.Waraon and Sairams

For Respondent : Mr.Yogesh Kannadasan
Nos.1 & 2 Special Government Pleader



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ORDER

This writ petition has been filed for issuance of writ of Certiorari to call for the records in Na.Ka. No.14561/U1/U6/2023 dated 20.09.2023 passed by the 1st respondent and quash the same.

2.The case of the petitioner is as follows:

(i) One U.S.Sridhar who is the husband of the petitioner and his family owned a larger extent of lands in various survey Numbers in Kannakkanpalayam Village, Udumalpet Taluk, Tirupur District. In the year 1997, a portion of the lands was declared as excess lands over the permitted limit under The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58/61) and the excess land was declared by the Government for assigning the same to the landless persons. Some of the properties including the subject land situated in survey No.307/3C admeasuring an extent of 0.81.0 Hectares equivalent to an extent of 2.00 Acres were assigned by the Assistant Commissioner, Erode in favour of the farm workers of the said U.S.Sridhar. The land measuring an extent of 2 acres was assigned in favour of the third respondent under the assignment dated July



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2002 under A.O.No.2439 as per the Assignment order passed by the Assistant

Commissioner Land Reforms Erode in MR IV/672/C4 dated 17.08.2001. The assignment was made subject to the fulfillment of the certain conditions failing which the assignment shall be cancelled by the authorities concerned. Even after the assignment, the assignee was not interested in either holding or cultivating the land and was also not interested in fulfilling the conditions which are stipulated under the deed of Assignment. The petitioner's husband namely U.S. Sridhar was continuously in possession and enjoyment of the land and cultivating the said lands. Ten of the farm workers including the third respondent, who is the assignee approached the petitioner and requested the petitioner that they wanted to reconvey the land since they required money for their family expenses. The petitioner on humanitarian grounds in order to help the workers agreed to re-purchase the land and accordingly, the petitioner paid the market value of the properties to them and the sale deed was executed. The third respondent reconveyed the properties admeasuring an extent of 0.81.0 Hectares comprised in survey No.307/3C under sale deed dated 10.08.2022, registered as document No.9552/2022 on the file of the S.R.O Udumalpet for a consideration of Rs.22,81,000/-. The petitioner bonafidely trusted all of them including the third respondent and entered into the sale transaction in good



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faith and with the sole intention of helping them.

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(ii)After execution of the registration of sale deeds out of ten vendors, four of them approached the Sub-Registrar and disputed that they did not execute the sale deeds. Since the third respondent was not in touch with the petitioner for several years, she could not able to recognize him at the time of registration of the sale deed and the person approached the petitioner as third respondent produced Aadhar card at the time of registration of the sale deed and the petitioner bonafidely believed that the third respondent is executing the sale deed by receiving the consideration. The petitioner is a bonofide purchaser who believed the vendors and not suspected any of them and executed the sale deed with the bonafide intention. When the mistake was brought to her knowledge, the petitioner immediately approached the Sub-Registrar, Udumalpet to cancel the four sale deeds. The Sub-Registrar delayed in registering the cancellation deeds. The petitioner requested the registrar to cancel the deed since the mistake was unintentional and she did not want to derive any benefit out of erroneous registration of the sale deeds. The Sub Registrar declined to register the cancellation deed as requested by the



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petitioner and therefore, the petitioner executed a release deed instead of cancellation deed and executed a registered release deed in respect of the third respondent on 28.01.2023 and the same was registered as document No.973 of 2023 and the third respondent taking advantage of the situation, he started to threaten the petitioner and her family members by demanding to convey another five acres of land belonging to Sridhar, who is none other than the husband of the petitioner which is worth more than Rs.25.00 crores. The petitioner has preferred the police complaint on 01.02.2023. The third respondent filed the writ petition in W.P.No.7541 of 2023 seeking a mandamus for appropriate direction directing the first respondent to consider the representation of the petitioner dated 01.11.2022 in accordance with Section 77A as well as clause XIV of the Registration Act,1908. When the said writ petition came up for admission on 13.03.2023, this Court without issuing notice to the petitioner passed an order directing the first respondent to consider the representation as prayed for by the third respondent. In pursuance of the said order, the first respondent issued an enquiry notice dated 03.08.2023 and called for an enquiry under Section 77A of the Registration Act, 1908. The petitioner immediately sent a reply through her advocate and requesting the first respondent to keep in abeyance of the further proceedings



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in view of the fact that the this Court already passed the order dated 27.03.2023 referring the issue of the enquiry under Section 77A of the Tamil Nadu Registration Act, 1908 for the consideration by a Larger Bench of the Court.

(iii).The petitioner also filed writ Appeal against the order passed in W.P.No.7541/2023 dated 13.03.2023 in writ Appeal (SR) No.116029 of 2023. The first respondent issued the second summon on 27.08.2023 fixing the date of enquiry on 05.09.2023. The petitioner also entered appearance through her counsel on 05.09.2023 and the first respondent was not available on that date and it was informed that the first respondent had an emergency meeting with the Chief Secretary of Tamil Nadu and therefore, her lawyer left from the office of the first respondent and it was informed by the personal assistant to the first respondent that the next date will be intimated. The first respondent also issued another summon dated 05.09.2023 fixing the date of enquiry on 14.09.2023 at 3.00 p.m. Since the learned counsel for the petitioner held up in the High Court in another case, the Junior counsel appeared before the first respondent and requested time to file the reply statement. The first respondent did not accept the said request made by the Junior counsel and reserved the



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matter for orders. The petitioner also filed the writ petition in W.P.No.27947 of 2023 challenging the proceedings of the first respondent under the summon dated 05.09.2023 and to quash the said notice on the ground of denial of an opportunity. The said writ petition also came up for admission on 22.09.2023. This Court after hearing issued a direction permitting the petitioner to file additional grounds on or before 25.09.2023 and thereafter, considering the additional grounds directing the first respondent to pass the order in accordance with law. The Govt pleader also appeared on behalf of the first respondent and informed this Court that the orders reserved in the said matter and only after the instructions by the Government Pleader, this Court passed the order dated 22.09.2023. The impugned order passed by the first respondent is on 20.09.2023 after having the knowledge of the filing of the above writ petition. Therefore, the sale deed under challenge was executed on 10.08.2022 and the amendment came into force only on 16.08.2022 and also this Court passed order on 25.07.2023 in W.P.19239 of 2023 clearly held that the Section 77 A has no retrospective effect. Therefore, the first respondent or the second respondent have no power to conduct any enquiry or pass orders under Section 77 A or 77 B of the Tamil Nadu Registration Act, 1908. Therefore, the present writ petition has been filed.



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3.The learned counsel appearing for the petitioner mainly contended that the petitioner is a bonafide purchaser and the sale deed was executed on 10.08.2022 prior to the impugned order dated 20.09.2023 and the amended Section 77A of the Tamil Nadu Registration Act, 1908 came into force on 16.08.2022 and as per the order of this Court, there is no retrospective effect and the document, which was executed earlier, cannot be made under Section 77A and therefore, the impugned order is liable to be set aside.

4.Heard the learned Special Government Pleader appearing for the first and second respondents.

5.I have considered the submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the first and second respondents and perused the materials available on record.

6.On perusal of the records, it is seen that in this matter, it has to be decided whether the petitioner is a bonafide purchaser or not. It is a matter of



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evidence, which cannot be decided in the writ petition. Further, there is an appeal provision against the order passed under Section 77A of the Tamil Nadu Registration Act, 1908 and the petitioner may get an alternative remedy by way of an appeal. Under these circumstances, the writ petitioner is not entitled to the relief as sought for in the writ petition.

7. Accordingly, the writ petition is dismissed with liberty to the petitioner to work out her remedy in the manner known to law. No costs. Consequently, a connected miscellaneous petition is also closed.

Index : Yes/No
Internet : Yes/No
sms

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To

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