



W.P.No.33096 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.33096 of 2023
and
W.M.P.No.32780 of 2023

R.Krishnan

... Petitioner

Vs.

1. Inspector General of Registration,
O/o Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Chennai - North),
Office of the District Registrar (Chennai - North)
Chennai - 600 014.
3. The Sub-Registrar,
Office of the Sub Registrar,
Thiruvottiyur, Chennai - 600 019.
4. Janarthanam

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the third respondent to remove the entries made pursuant to the second respondent's impugned order dated 24.08.2023 pertaining to the property situated at Tiruvallore District, Ponneri Taluk, Vazhuthikaimedu Village bearing Survey No.190/1A and 190/1A1



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(Patta No.55) to an extent of 1 acre 03 cents within the Registration District of Chennai - North and Sub- Registration District of Thiruvottiyur and also directing the third respondent not to make any further entries till the disposal of the appeal dated 14.09.2023 pending on the file of the first respondent.

For petitioner : Mr.B.Gurunathan
For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed seeking to issue a writ of mandamus directing the third respondent to remove the entries made pursuant to the second respondent's order dated 24.08.2023 pertaining to the property situated at Tiruvallore District, Ponneri Taluk, Vazhuthikaimeedu Village bearing Survey No.190/1A and 190/1A1 (Patta No.55) to an extent of 1 acre 03 cents within the Registration District of Chennai - North and Sub- Registration District of Thiruvottiyur and also, directing the third respondent not to make any further entries till the disposal of the appeal dated 14.09.2023 pending on the file of the first respondent.

2. It is submitted by the learned counsel for the petitioner that the petitioner is the owner of the property bearing Survey No.190/1A and



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190/1A1 (Patta No.55) to an extent of 1 acre 03 cents, having purchased the same for a valuable consideration under registered sale deed dated 20.02.2014 *vide* document bearing No.1134 of 2014; originally, the said property was purchased from one Sankara Naidu by a registered settlement deed dated 06.11.2012 bearing document No.8146/2012.; the fourth respondent had lodged a complaint on 10.05.2023 before the second respondent to cancel the settlement deed dated 06.11.2012 and sale deed dated 20.02.2014 executed in favour of the petitioner; subsequently, the petitioner filed a civil suit for declaration and permanent injunction in O.S.No.160 of 2023 on the file of the III Additional District and Sessions Judge, Ponneri, which is still pending; in the meanwhile, the second respondent sent an enquiry notice dated 27.06.2023 and passed an order pursuant to Section 77-A of the Registration Act and cancelled both the settlement deed dated 06.11.2012 and sale deed dated 20.02.2014 alleging that both of them are forged documents. Aggrieved by the same, the petitioner preferred an appeal before the first respondent under Section 77-B of the Registration Act which is now pending disposal.



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3. It is further submitted by the learned counsel for the petitioner that subsequent to cancellation of the documents, the second respondent, under Section 77-A *ibid*, made correction in the relevant records stating that the said settlement deed dated 06.11.2012 and sale deed dated 20.02.2014 are forged documents.

4. It is also submitted by the learned counsel for the petitioner that the second respondent cannot decide that the documents are forged or otherwise fabricated documents and emphasis is made on paragraph 9 of a Single Bench judgment of this Court in *Basha Zathi vs The District Registrar and others*, wherein it is held as follows:

" 9. Therefore, necessarily, the Court has to form an opinion that in respect of the documents falling under Section 22 B of the Act, if sought to be cancelled, then the Registrar is empowered to cancel the documents under Section 77A of the Act. In respect of other documents registered prior to the amendment, one has to understand that those documents are to be dealt in accordance with law prevailing at the time of registration either by approaching the Civil Court of law or otherwise. When all those documents registered to Section 77A of the Act, then this Court is afraid that an anomalous situation would be created by approaching the District Registrar for the purpose of adjudication of disputed issues with reference to those documents registered several years



back. The amendment effected from 16.08.2022 has not intended to do so nor the provision expressly provides any such retrospective application. Prior to amendment, Section 22A and Section 22B was not in force. Thus, Section 77A cannot have retrospective effect. In other words, Section 77A must be read in conjunction with Section 22A and Section 22B of the Act. Insertion of all these three Sections are to be understood holistically to avoid any in orderliness."

Based on the above, the learned counsel for the petitioner sought for removal of the entries made by the third respondent pursuant to the direction given by the second respondent.

5. The learned Special Government Pleader submitted that the issue in respect of Section 77A of the Registration Act, is pending before the appropriate Bench.

6. Heard both sides and perused the materials available on record.

7. Considering the submissions made by both sides, it is clear that the petitioner has taken a plea that the second respondent has no jurisdiction and authority to decide the genuineness or otherwise of the documents.



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8. In the opinion of this Court, the petitioner should have taken steps to approach the Civil Court once the second respondent passed an order under Section 77A *ibid*, in respect of the issue is whether the settlement deed and the sale deed are forged ones. Be it noted, the petitioner has already subjected himself to the jurisdiction of the first respondent under Section 77B, *ibid*.

9. Considering the facts and circumstances of this case, this Court is inclined to consider the relief sought by the petitioner in respect of cancellation of the documents and corrections made in the relevant records basing on the directions given by the second respondent under Section 77A, *ibid*. Accordingly, this Court further directs the first respondent to consider the petitioner's appeal under Section 77B, *ibid* and dispose of the same as quickly as possible within a period of eight weeks from the date of uploading this order. Connected W.M.P is closed. No costs.

23.11.2023

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Index	:	Yes/No
Citation	:	Yes/No
Internet	:	Yes/No

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DR. D.NAGARJUN,J.

vca

To:

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O/o Inspector General of Registration,
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Chennai - 600 028.
2. The District Registrar (Chennai - North),
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