



W.P.Nos.28110 to 28112 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.28110 to 28112 of 2017

Sarad Kumar B.Jain

... Petitioner
in W.P.No.28110 of 2017

Ashok Kumar B.Jain

... Petitioner
in W.P.No.28111 of 2017

Madanlal B.Chowatia

... Petitioner
in W.P.No.28112 of 2017

versus

1.District Registrar Administration,
North Chennai,
No.1, Murthygal Lane,
Chennai -600 001.

2.M.Ramani

3.V.Maheshwari

4.L.Pushpa

5.P.Kalavathy

... Respondents
in all W.Ps

Writ Petitions filed under Article 226 of Constitution of India, to
issue a Writ of Certiorarified Mandamus calling for the records on the file

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of the first respondent in impugned order Nos.9218/AA5/2015, 9215/AA5/2015 and 9214/AA5/2015 dated 24.08.2017 and quash the same as invalid and illegal as it amounts to refusal to exercise the powers vested in first respondent and direct the first respondent to cancel the document No.7405/2012 dated 11.04.2012 on the file of the Sub-Registrar of Assurances, Redhills.

For Petitioners in all W.Ps : Mr.T.V.Lakshmanan
For Respondents in all W.Ps : Mr.Ramanlal
Additional Advocate General
Assisted by Mr.R.P.Murugan Raja
Additional Government Pleader for R1
Mr.V.Ayyapparaja
for R2 to R5

COMMON ORDER

These writ petitions have been filed to quash the impugned orders of the first respondent dated 24.08.2017 vide Nos.9218/AA5/2015, 9215/AA5/2015 and 9214/AA5/2015 and consequently, to direct the first respondent to cancel the document No.7405/2012 dated 11.04.2012 on the file of the Sub-Registrar, Redhills.

2. The case of the writ petitioners in a nutshell is as follows:



2.1. The writ petitioners purchased the land in S.Nos.85/2A, 85/2B, 93/2B part and 93/2C part measuring an extent of 43.58 cents in No.114 Nallur Village, Ponneri Taluk, Chengalpattu, MGR District (now Tiruvallur) vide sale deed dated 24.08.1996 registered as Document No.4575 of 1996 on the file of the Sub-Registrar, Red Hills. The mutation of relevant records was effected accordingly.

2.2. However in the year 2012, 3 persons namely, V.Maheswari, L.Pushpa and P.Kalavathy, who are respondents 3 to 5 executed a release deed dated 11.04.2012 in favour of Mrs.M.Ramani (second respondent) registered as document No.7405 of 2012 on the file of Sub-Registrar, Red Hills. In the release deed, it was shown that one Kamalammal purchased the property as guardian of minors Kesavan and Shanmugam vide sale deed dated 05.09.1947 and after attaining majority, they took over the property and the parties to the said release deed were the daughters of Shanmugam. It is pertinent to note that the sons of Mr.Shanmuga Reddy joined as vendors in the sale deed executed in 1995. Thus, the writ petitioners have purchased the property under a valid document. The second respondent and



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her alleged sisters have falsely executed the release deed in order to illegally grab the land from the writ petitioners.

2.3. Since the sale deed executed in the year 1995 clearly shows that the vendors therein only have the absolute right, the release deed dated 11.04.2012 executed by respondents 3 to 5 in favour of second respondent ought not to have been registered. On the other hand, the second respondent and others have filed a suit in O.S.No.130 of 2012 on the file of District Munsif Court, Ponneri seeking for injunction. Under these circumstances, the writ petitioners sent a representation dated 22.07.2015 requesting to annul the release deed dated 11.04.2012 vide Document No.7405 of 2012 executed by respondents 3 to 5 in favour of the second respondent. However, the first respondent had not taken any action. Hence, the writ petitioners filed writ petitions vide W.P.No.39626 to 39628 of 2016 seeking for a direction to the first respondent to enquire and decide on the writ petitioners' representation and the same came to be disposed on 15.12.2016 with a direction to the respondents therein to consider the writ petitioners' representation in accordance with law. Thereafter, the first respondent after holding enquiry passed an order dated 24.08.2017 bearing



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reference Nos.9218/AA5/2015, 9215/AA5/2015 and 9214/AA5/2015,

wherein, it been stated as follows :

(i) the petitioners had purchased the properties through valid and legal documents and effected revenue records properly;

(ii) the respondents 2 to 5 did not produce any evidence to prove their ownership;

(iii) Circular No.67 of 2011 dated 03.11.2011 provided for cancelling the registered document by the same Registrar has been stayed by Hon'ble Madras High Court;

(iv) Since the Circular No.67 of 2011 dated 03.11.2011 has been stayed by Hon'ble Madras High Court, the Registrar has no power to cancel the registered document and the writ petitioners can approach the Hon'ble High Court for suitable orders.

2.4. Hence, the writ petitioners approached this Court by way of filing the three writ petitions.



3. Learned counsel for writ petitioners submitted that since the release deed dated 11.04.2012 vide Document No.7405 of 2012 was fraudulently registered by respondents 3 to 5 in favour of the second respondent without having any right or title over the said property, the said release deed is liable to be cancelled. Learned counsel further submitted that the first respondent having conducted detailed enquiry and found that the petitioners' vendor had purchased the property from the previous owners under a valid document, orders of the first respondent dated 24.08.2017 amounts to refusal of writ petitioners' request by exercising the powers vested with him insofar as the cancellation of release deed dated 11.04.2012. The learned counsel for the petitioners further submitted that subsequently law has been amended and Sections 77 A and 77 B of Registration Act, 1908 [hereinafter referred to as 'the Act' for sake of convenience] have been introduced. Whether Section 77 A of the Act has to be given retrospective or perspective effect is pending due to distinct decisions of two separate Benches of this Court and these matters have been referred to the Larger Bench of this Court and hence, these writ petitions also to be tagged along with the pending matters.



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4. The learned Additional Advocate General appearing for the first respondent submitted that there is no bar under Section 77-A of the Act regarding enquiry made by the Registrar based on the complaint given by any other parties. As on the date of passing of impugned orders, there is no law enabling the first respondent to decide the matters regarding the cancellation of registered documents. Therefore, the first respondent has passed the impugned orders by stating the reasons supra.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The petitioners have sought for a relief to cancel the release deed dated 11.04.2012 executed by respondents 3 to 5 in favour of the second respondent vide Document No.7405 of 2012. A representation was given to the first respondent in this regard and the first respondent passed orders dated 24.08.2017 stating that the Registrar has no power to cancel the release deed dated 11.04.2012 as Circular No.67 of 2011 dated 03.11.2011



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pertaining to cancellation of registered document by the same Registrar has been stayed by Hon'ble Madras High Court.

7. Considering the submissions made by both sides, this Court is of the view that as on the date either passing of impugned orders or filing of the writ petitions, there is no provision for the first respondent to enquire the subject matter and to pass the order cancelling any document. Section 77-A of the Act only came into force in the year 2022.

8. Under these circumstances, these writ petitions are not maintainable. Accordingly, these Writ Petitions are dismissed. However, the writ petitioners are at liberty to work out their remedy in the manner known to law. There shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

The District Registrar Administration,
North Chennai, No.1, Murthygal Lane,
Chennai -600 001.

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P.VELMURUGAN, J.

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