



WEB COPY

W.P. No.33746 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.33746 of 2023 and
W.M.P.No.33589 of 2023

Saraswathi

... Petitioner

Vs.

1. The Inspector General of Registration
No.100, Santhome High Road,
Pattinapakkam
Chennai - 600 028.
2. The District Registrar (Admin)
The Nilgiris.
3. D.Ramachandra Prabhu
4. Halammal
5. Kannamma
6. Lingaraj
7. Malliga
8. M.Krishnamurthy
9. M.Sivakumar
- 10.M.Shankar

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records on the file of the 2nd respondent in No.1538/A4, dated 09.10.2023 and quash the same.

For Petitioner : Mr.S.Karthikeyan

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

ORDER



This Writ Petition is filed seeking to issue a writ of Certiorari to call for the records on the file of the 2nd respondent in No.1538/A4, dated 09.10.2023 and quash the same.

2. The private respondents filed a petition under Section 77-A of the Registration Act (for brevity “the Act”), before the 2nd respondent and the 2nd respondent after conducting enquiry under Section 77(A) of the Act, passed the impugned order cancelling the Doc. No.1827 of 2023 and also gave a direction to initiate criminal proceedings under Section 83 of the Act against the respondents therein. Challenging the said order, the petitioner has filed the present writ petition for certiorari to call for the records and to quash the said impugned order.

3. The learned counsel for the petitioner submitted that as per the circular issued by the Registration Department, the 2nd respondent has no authority to cancel the said document and therefore, the impugned order has to be quashed.

4. The learned counsel for the private respondents submitted that the



document itself is after the amendment of Section 77(A) of the Registration Act. Therefore, the circular of the Registration Department would not bind this order. He further submitted that the Registrar has considered as if he has got the power to conduct enquiry and cancel the document, but the petitioner has to challenge the same before the appellate authority. Therefore, the writ petition is not maintainable.

5. Heard and perused the document in challenge.

6. Admittedly, the impugned order is passed only subsequent to the amendment of Section 77(A) of Act and there is an appeal provision under Section 77(B) of the Act. If the petitioner is aggrieved by the order of the 2nd respondent, he has to file appeal before the 1st respondent.

7. The writ petitioner has got a statutory provision of appeal remedy before the 1st respondent and without exhausting the same, he has filed the present writ petition. Therefore, the writ petition is not maintainable. It is for the writ petitioner to challenge the said order before the 1st respondent under Section 77(B) of the Act, if he is so advised.



8. With the above directions, this Writ Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

14.12.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

1. The Inspector General of Registration
No.100, Santhome High Road,
Pattinapakkam
Chennai - 600 028.

2. The District Registrar (Admin)
The Nilgiris.



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P.VELMURUGAN. J.

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