



W.P.No.34802 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34802 of 2023
and
W.M.P.No.34807 of 2023

P.Murugan

... Petitioner

versus

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Registration Department,
Chennai – 600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.
- 3.The District Registrar (Administration),
Office of the District Registrar,
Kallakurichi.
- 4.The Sub-Registrar,
Office of the Sub Registrar,
Sankarapuram,
Kallakurichi Registration District,
Kallakurichi – 606 206.
- 5.Sonasalam Gounder

.....Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for all the connected and relevant records relating to the impugned order passed by the District Registrar (Administration), Office of the District Registrar, Kallakurichi, the third respondent herein in his proceedings in Na.Ka.No.2913/AA4/2022, dated 25.08.2023 and quash the same.

For Petitioner : Mr.S.Buvaneswari
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 to R4

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader accepts notice for respondents 1 to 4. Since no adverse order is being passed as against the fifth respondent, notice to the fifth respondent is dispensed with.

2. This Writ Petition has been filed to quash the proceedings in Na.Ka.No.2913/AA4/2022, dated 25.08.2023 passed by third respondent.

3. The case of the petitioner is that he purchased the subject properties



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by virtue of a registered Sale Deed, dated 12.06.2012, vide Doc.No.3036 of 2012, on the file of the fourth respondent herein from one Ganapathy, who is the son of the fifth respondent herein. Since then, he is in peaceful possession and enjoyment of the said properties. The fifth respondent is none other than the paternal uncle of the petitioner. After the said purchase, the petitioner sold a portion of the subject properties to various other persons through registered Sale Deeds vide Doc.Nos.1152 of 2018, 213 of 2021, 2865 of 2022 and 3132 of 2022. Due to family dispute, the petitioner filed a civil suit in O.S.No.163 of 2022 before the District Munsif Court, Sankarapuram against the fifth respondent, since the fifth respondent interfered with the peaceful possession and enjoyment of the subject properties, and the said suit is under the stage of trial. While that being so, the fifth respondent has given a complaint dated 08.02.2022 to the third respondent requesting to cancel the registered Sale Deed dated 12.06.2012, vide Doc.No.3036 of 2012, which was registered fraudulently by the petitioner. Based on the said complaint, the third respondent passed the impugned order dated 25.08.2023, cancelling the Document No.3036 of 2012 and other Document Nos.1152 of 2018, 213 of 2021, 2865 of 2022



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and 3132 of 2022 under Section 77 A of the Registration Act, 1908 on the ground that revenue records do not reflect in the name of the petitioner.

4. Further case of the petitioner is that originally Document No.3036 of 2012 was registered on 12.06.2012, subsequent to that on 16.08.2022 Sections 77 A of Registration (Tamil Nadu II Amendment) Act, 2021 [hereinafter referred to as 'Registration Act'] was introduced for cancellation of registered documents which are fraudulent in nature. No retrospective effect has been given to the application of this Section 77 A of the Registration Act. In the absence of the same, the documents registered prior to the amendment cannot be cancelled by invoking Section 77-A of the Registration Act. If the fifth respondent has any grievance, he has to approach the Civil Court for declaration of the document as null and void. While that being so, the second respondent issued a Circular No.3/2023, dated 29.09.2023 directing the Registrar and the Sub-Registrar of the Registration Department that while registering the document, the question regarding Section 77-A of the Registration Act shall not be entertained. Therefore, the third respondent has no jurisdiction to invoke Section 77 A of



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the Registration Act and passed the impugned order and hence, the same is liable to be quashed.

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

6. On a perusal of the records, it is seen that the impugned order was passed only subsequent to the amendment of Section 77-A of Registration Act. Whether the amendment of Section 77 A of the Registration Act has to be given retrospective or prospective effect is pending due to distinct decisions of two separate Benches of this Court and the said decisions have been referred to a Larger Bench, which is yet to be constituted, to decide the matter. If the petitioner is aggrieved with the order of the third respondent, he has got an alternative remedy under Section 77 B of the Registration Act and without exhausting the appellate remedy, the petitioner has filed the present writ petition.. Therefore, the petitioner is not entitled to get any relief sought for in this writ petition. However, the petitioner is at liberty to work out his remedy in the manner known to law.



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7. With the above direction, this Writ Petition is disposed of.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

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

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