



W.P.(MD)Nos.10210, 12320 and 18404 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.10210, 12320 and 18404 of 2023

and

W.M.P.(MD)No.10487 of 2023

and

W.M.P.(MD)Nos.13884 and 13885 of 2023

W.P.(MD)No.10210 of 2023

K.G.Pandian

... Petitioner

versus

1. The District Collector,
Madurai District,
Madurai.
2. The Tahsildar,
Vadipatti Taluk,
Madurai District,
Madurai.
3. The District Head Surveyor,
Madurai District,
Madurai.
4. The Taluk Surveyor,
Vadipatti Taluk,
Madurai District,
Madurai.



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5. The Village Administrative Officer,
Kallanai Village,
Vadipatti Taluk,
Madurai District,
Madurai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents herein to survey and fix the boundaries of the petitioner's land situate at Kallanai Village, Vadipatti Taluk, Madurai District comprised in S.Nos.193/4B, 160/1, 136/1A, 35/20B, 41/10B, 41/10A1, 136/1B, 100/1B, 41/10A, 133/5A, 133/6A and 133/7, admeasuring total extent of 8.26 ½ Acres, having patta Nos.3203, 3204, 3206, 3209 and 3210 by considering the petitioner's representation dated 16.03.2023 within the time frame as may be fixed by this Court.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

W.P.(MD)No.12320 of 2023

A.Ravichandran

... Petitioner

versus

1. The District Collector,
Madurai,
Madurai District.



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2. The Tahsildar,
Vadipatti Taluk,
Madurai District.

3. The Head Surveyor,
Vadipatti,
Vadipatti Taluk,
Madurai District.

4. The Village Administrative Officer,
Kallanai Village,
Alanganallur,
Vadipatti Taluk,
Madurai District.

5. K.G.Pandiyan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to forbear the respondents 1 to 4 from conducting survey and subdivision of the petitioner's land in Survey Nos.133/5A, 133/6A, 133/7, 100/1B, 41/10A, 136/1B, 41/10A1, 41/10B, 35/20B, 136/1A, 160/1, 193/4B in Kallanai Village, Alanganallur, Madurai District without due process of law.

For Petitioner : No appearance



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For R1 to R4 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
For R5 : Mr.S.Senthil

W.P.(MD)No.18404 of 2023

A.Ravichandran

... Petitioner

versus

1. The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai – 600 028.

2. The District Registrar,
District Registrar Office,
Rajagambeeram, Y,Othakadai,
Madurai District.

3. The Sub-Registrar,
Alanganallur Sub Registrar Office,
Alanganallur,
Madurai District.

4. ICICI Bank Limited,
Rep. by its Branch Manager,
Kanavaipatti Branch,
Sanarpatti, Dindigul District.

5. K.G.Pandiyan

... Respondents



W.P.(MD)Nos.10210, 12320 and 18404 of 2023

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents 1 to 3 herein to consider the representation of the petitioner dated 25.05.2023 and conduct enquiry by issuing notice to the 5th respondent and pass appropriate orders to cancel the sale deeds D.No.442/2020, 443/2020 and 444/2020 dated 30.01.2020 and the mortgage deed D.No.178/2020 dated 14.01.2020 executed in favour of the 5th respondent by the petitioner and the deed of Memorandum of Deposit of the Title Deeds executed by the 5th respondent in favour of the 4th respondent Bank.

For Petitioner : No appearance

For R1 to R3 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

For R5 : Mr.S.Senthil

COMMON ORDER

W.P.(MD)No.10210 of 2023 is filed by one K.G.Pandian, for a Mandamus, directing the respondents to survey and fix the boundaries of the lands comprised in S.Nos.193/4B, 160/1, 136/1A, 35/20B, 41/10B, 41/10A1, 136/1B, 100/1B, 41/10A, 133/5A, 133/6A and 133/7, admeasuring total extent of 8.26 ½ Acres, situated at Kallanai



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Village, Vadipatti Taluk, Madurai District, by considering his application dated 16.03.2023

2. The learned counsel for the petitioner in W.P.(MD)No.10210 of 2023, by referring to the challen dated 11.03.2023, submits that the petitioner has applied for surveying his lands along with the required fee. However, the respondents have not conducted survey. Therefore, the petitioner has filed this writ petition.

3. Mr.G.V.Vairam Santhosh, learned Additional Government Pleader appearing for the respondents submits that one A.Ravichandran, who is the petitioner in W.P.(MD)No.12320 of 2023 and his brother one A.Kannan, have raised certain objections and prevented the officials from conducting survey. Therefore, survey could not be conducted.

4. It appears that the said Ravichandran and his brother



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A.Kannan have also filed impleading petitions to implead them as parties to the writ petition in W.M.P.(MD)Nos.13885 and 13884 of 2023 in W.P.(MD)No.10210 of 2023, through a counsel Mr.S.Syed Mohammed Bhadhusa. However, when the writ petition is taken up for hearing, there is no representation for the said Ravichandran in W.M.P. (MD)No.13885 of 2023 and there is no representation for A.Kannan in W.M.P.(MD)No.13884 of 2023. The said Ravichandran has also filed another writ petition in W.P.(MD)No.18404 of 2023, through Advocates, one Mr.S.Devarajan and Mr.S.Syed Mohammed Bhadusha, for a Mandamus directing the respondents 1 to 3 therein to consider his representation dated 25.05.2023 and conduct an enquiry by issuing notice to the 5th respondent therein, who is the petitioner in W.P. (MD)No.10210 of 2023 and pass appropriate orders to cancel the sale deeds in D.Nos.442/2020, 443/2020 and 444/2020 dated 30.01.2020 and the mortgage deed in D.No.178/2020 dated 14.01.2020 executed in favour of the 5th respondent by him.



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5. It also appears that the said Ravichandran has also filed another writ petition in W.P.(MD)No.12320 of 2023 through Advocate Mr.S.Sysed Mohammed Badhusa, for a Mandamus, to forbear the respondents 1 to 4 from conducting survey and subdivision of the lands in Survey Nos.133/5A, 133/6A, 133/7, 100/1B, 41/10A, 136/1B, 41/10A1, 41/10B, 35/20B, 136/1A, 160/1, 193/4B in Kallanai Village, Alanganallur, Madurai District.

6. Even in both the writ petitions, viz, in W.P.(MD)Nos.18404 of 2023 and 12320 of 2023, there is no representation for the said Ravichandran. However, in W.P.(MD)No.18404 of 2023, when the writ petition came up for admission, it came to know that learned counsel Mr.S.Devarajan, in whose name this writ petition has been filed, has circulated a letter to the Registrar (Judicial) that by forging his signature, this writ petition has been filed. The Advocate Mr.S.Devarajan also claimed that he has also lodged a complaint in this regard. This writ petition was represented by one Mr.M.Pitchaimuthu,



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learned counsel representing on behalf of Mr.S.Devarajan and when he has been verified by this Court, he submitted that the case papers have been entrusted to him by one S.Syed Mohammed Bhadusha, who is a practising Advocate before the District Court.

7. Since a complaint has been lodged by the counsel Mr.S.Devarajan, that by forging his signature, the vakalat has been filed in W.P.(MD)No.18404/2023, this Court has directed the Registrar (Judicial), Madurai Bench of Madras High Court, to conduct an enquiry and submit a report before this court.

8. The Registrar (Judicial) has filed a report as follows:

“One M.K.Muthukumaran , who is stated to have been misused the name of the counsel Mr.Devarajan, in W.P.(MD)No.18404 of 2023 did not appear for enquiry on 31.07.2023. Therefore, notice was sent through Bailiff, directing him to appear in person at 3.30 p.m. on 03.08.2023. However, the notice was returned “unserved” as the said M.K.Muthukumaran was not in



station and the statement made by the Bailiff concerned is submitted at Flag “F”for your Lordship's kind perusal.

It is respectfully submitted that without examining alleged auditor Muthukumar the writings in filling the contents of vakalat cannot be confirmed. It is necessary to compare his writing with the contents filled in vakalat. Further as regards the alleged forgoing of the signature of the complainant advocate cannot be fixed without there being a thorough investigation.

Therefore it is respectfully submitted for the kind consideration of Your Lordship and further course of action is solicited.”

9. When these writ petitions are again listed for hearing before this Court, there is no representation for Mr.A.Ravichandran, in W.M.P.(MD)No.13885 of 2023 in W.P.(MD)No.10210 of 2023, in W.P.(MD)No.18404 of 2023 and also in W.P.(MD)No.12320 of 2023.

10. The learned counsel appearing for the petitioner in W.P.



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(MD)No.10210 of 2023 submits that the said Ravichandran and his brother one A.Kannan have sold the lands in Survey Nos.193/4B, 160/1, 136/1A, 35/20B, 41/10B, 41/10A1, 136/1B, 100/1B, 41/10A, 133/5A, 133/6A and 133/7, situated at Kallanai Village, Vadipatti Taluk, Madurai District, by way of registered sale deeds dated 30.01.2020. They have also executed a mortgage deed in favour of the petitioner in the year 2013 with regard to the same property. Since they could not pay the mortgage amount together with interest, they sold the above lands by way of registered sale deeds dated 30.01.2020. The said fact has not been disputed by them till the petitioner has made an application to survey the lands and to fix the boundaries.

11. This Court considered the submission of the learned counsel for the petitioner in W.P.(MD)No.10210 of 2023 and also perused the materials placed on record.

12. W.P.(MD)No.10210 of 2023 is filed for a Mandamus



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directing the respondents to measure the petitioner's lands based on his application dated 16.03.2023. The petitioner in W.P.(MD)No.10210 of 2023 claims that he has submitted the application dated 16.03.2023 to survey and fix boundaries of the lands in S.Nos.193/4B, 160/1, 136/1A, 35/20B, 41/10B, 41/10A1, 136/1B, 100/1B, 41/10A, 133/5A, 133/6A and 133/7, admeasuring total extent of 8.26 ½ Acres, situated at Kallanai Village, Vadipatti Taluk, Madurai District, by paying the required fee for surveying the lands.

13. The petitioner's application has not been considered in view of the objections raised by one Ravichandran and his brother one Kannan. The said Ravichandran and Kannan have filed impleading applications to implead them as parties in W.P.(MD)No.10210 of 2023. The said Ravichandran has also filed another two writ petitions in W.P. (MD)Nos.12320 and 18404 of 2023. However, there is no representation for the said Ravichandran in these two writ petitions.



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14. If the impleading petitioners are having any objection for surveying the lands, they can very well submit their objections before the Survey Officer. The Survey Officer is also expected to give notice to the adjacent land owners and the objectors, if any, as per Section 10 of the Tamil Nadu Survey and Boundaries Act.

15. Accordingly, W.P.(MD)No.10210 of 2023 is disposed of with a direction to the respondents to conduct survey, after issuing notice to the adjacent land owners and also to the objectors, namely, A.Ravichandran and his brother A.Kannan, as per Section 10 of the Tamil Nadu Survey and Boundaries Act and thereafter, take a decision, within a period of eight weeks from the date of receipt of a copy of this order.

16. In view of the orders passed in W.P.(MD)No.10210 of 2023, the writ petition filed by A.Ravichandran in W.P.(MD)No.12320 of 2023 is disposed of by granting liberty to the petitioner to raise his



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objection, if any, before the Survey Officer, during the survey.

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17. Insofar as W.P.(MD)No.18404 of 2023 is concerned, this writ petition is filed by A.Ravichandran for a Mandamus directing the respondents 1 to 3 therein to consider his representation dated 25.05.2023 and conduct an enquiry by issuing notice to the 5th respondent therein, who is the petitioner in W.P.(MD)No.10210 of 2023 and pass appropriate orders to cancel the sale deeds in D.Nos. 442/2020, 443/2020 and 444/2020 dated 30.01.2020 and the mortgage deed in D.No.178/2020 dated 14.01.2020 executed in favour of the 5th respondent by him.

18. The Hon'ble Supreme Court in ***Satya Pal Anand v. State of M.P., [(2016) 10 SCC 767]*** has held that that the power to cancel the registration is a substantive matter and in the absence of any express provision on that behalf, it is not open to assume that the Registering Officer would be competent to cancel the registration of the documents



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in question. Therefore, for cancellation of registered documents, the State of Tamil Nadu brought an amendment to the Registration Act, vide the Registration (Tamil Nadu Second Amendment) Act, 2021. By this amendment Act, Sections 22B, 77A, 77B, 81A and 81B were inserted in the Registration Act. Section 77A provides the power to the Registrar to cancel registered documents, if it is found to be in contravention of sections 22A and 22B.

19. Whereas, this Court in ***S.M. Hajabakruthen Vs. The Inspector General of Registration [W.P.(MD) Nos. 14546 of 2022 batch, dated 27.03.2023]***, in view of the conflicting views taken by two different benches of this Court regarding the applicability of Section 77A, has referred various issues for consideration by a Larger Bench of this Court. The relevant portion of the reference order is extracted as follows-

“20. In view of the reasonings of the Full Bench and in view of the conflicting views of the two learned Single Judges the following issues are referred for due consideration by a



Larger Bench of this Court.

i) whether the recitals in a document presented for registration, can be examined to determine that such document was fraudulently executed or registered;

ii) whether a document in which the recitals alone are questioned can be considered only as voidable which would normally necessitate the filing of the suit to set aside the particular document or whether even those documents can be cancelled by the Sub Registrar under Section 77A of the Registration Act;

iii) whether exercise of power under Section 77A must be restricted to registration of documents in contravention to Section 22-A or 22-B of Registration Act, 1908 alone?

iv) whether the exercise of such power under Section 77A of the Registration Act can be prospective in nature or retrospective in nature?

21. To determine these issues, the Registry may place all the writ petitions before the Hon'ble Administrative Judge for constitution of a Larger Bench to examine the issues in detail.

22. Till a decision is rendered by the Larger Bench, let no further action be taken by any of the Sub Registrars, who



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may await further orders of the Larger Bench.”

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20. By referring to the above order, this Court in ***A.Shanthi v. The District Registrar [WP.No.18814 of 2023, dated 27.06.2023]*** has reiterated that the District Registrars across Tamil Nadu shall not take any action on an application under Section 77A of the Registration Act, till the reference is answered by the Larger Bench. The relevant portion is extracted as follows:-

“4.In the light of the above order, there is no scope for considering the representation made by the petitioner at present and the petitioner has to necessarily await for the final orders to be passed by the Larger Bench on the issue. Hence, this writ petition is closed for the present.

5.It is brought to the notice of this Court that in spite of the above order passed by this Court, the District Registrars are entertaining the applications under Section 77A of the Registration Act and even orders are passed. It is not known as to whether this order was circulated to all the District Registrars in State of Tamil Nadu. In view of the above order, this Court once again reiterates that the District Registrars



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across Tamil Nadu shall not take any further action on the application submitted under Section 77A of the Registration Act, till a final decision is rendered by the Larger Bench. The Inspector General of Registration is directed to issue a Circular in this regard to all the District Registrars across the State of Tamil Nadu immediately”

21. In view of the above decisions, W.P.(MD)No.18404 of 2023 is dismissed with liberty to the petitioner to approach the competent Civil Court and if any civil suit is filed, the same shall be entertained by the civil Court by excluding the period for which this writ petition was pending before this Court for the purpose of calculating the limitation period, if any. The writ petitioner is also at liberty to invoke Section 77A of the Act upon the outcome of the reference made. No costs. Consequently, connected miscellaneous petitions are closed.

31.08.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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To

1. The District Collector,
Madurai,
Madurai District.
2. The Tahsildar,
Vadipatti Taluk,
Madurai District.
3. The Head Surveyor,
Vadipatti,
Vadipatti Taluk,
Madurai District.
4. The Village Administrative Officer,
Kallanai Village,
Alanganallur,
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B.PUGALENDHI, J.

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