



W.P(MD)No.13100 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.13100 of 2023

and

W.M.P.(MD)No.11092 of 2023

T.Mareeswaran

... Petitioner

Vs.

1.The District Registrar
Office of the District Registrar,
Virudhunagar District

2.The Sub Registrar
Thiruthangal Sub-Registrar Office,
Sivakasi (Tk),
Virudhunagar District.

3.K.Ayyasamy

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the first respondent in



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Oo.Mu.No.7236/௮5/2023 dated 10.04.2023 and quash the same and consequently direct the first respondent to conduct fair enquiry under section 77-A of Registration Act,1908, and cancel the document No.1757 of 2008 in accordance with law.

For Petitioner : Mr.S.Mohamed Azharudeen Sharof

For Respondents : Mr.M.Prakash,
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking interference with an order of the first respondent/District Registrar, Virudhunagar District, dated 10.04.2023 and issue consequent directions to the said respondent to conduct an enquiry under Section 77-A of the Registration Act, 1908 on the application given by the petitioner herein.

2. The Writ Petition is disposed of even without issuing notice to the third respondent.



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3. Raising various grounds, and complaining that fraud had been played by registering Document No.1757/2008 by the second respondent / Sub Registrar, Sivakasi Taluk, Virudhunagar District, the petitioner had given an application before the first respondent / District Registrar, Virudhunagar District, on 28.10.2022. In that representation, he had also mentioned about the third respondent herein, K.Ayyasamy.

4. It is the contention of the learned counsel for the petitioner that though the first respondent issued notice to the third respondent on two occasions, the third respondent did not appear for enquiry.

5. It is also contended that without conducting proper enquiry, the first respondent had proceeded further on the representation and thereafter, has placed reliance on the circular of the Inspector General of Registration, dated 27.09.2022 and therefore, stated that the petition cannot be entertained under the provisions of Section 77-A of Registration Act, 1908. The first respondent is well within his powers to rely on the circular of Inspector General of Registration. But the order



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which he passes should clarify as to which portion of the circular he relies. He must first extract the circular and then state that owing to those portions of that particular circular, the petition given by the petitioner herein cannot be entertained. Merely relying on the circular, by giving the number and date of the circular would not come to the rescue of the first respondent and would not also provide clarity to the order.

6. The impugned order is, therefore, set aside. A direction is given to the first respondent to reexamine the entire issues. It would only be appropriate that he ensures the presence of the third respondent herein namely, K.Ayyasamy, son of A.Krishnasamy, residing at Thevarkulam, S.N.Puram(Post, Thiruthangal (via) Sivakasi - 626 130, and thereafter, proceeds with an enquiry as provided under Section 77-A of the Registration Act, 1908.

7. I am conscious of the fact that any enquiry under Section 77-A of the Registration Act, 1908, when brought to the notice of this Court, had been referred for further adjudication before a Larger Bench. But still it is necessary that the first respondent follows the procedure as



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enunciated by law and one of the primary steps is that reasons must be given in any order. Reasons would clarify as to why the order has been passed. Merely stating the circular number and date, would not give any clarity to the order.

8. In view of these reasons, the Writ Petition stands allowed.

The order impugned is set aside. The matter is remitted back to the first respondent to revisit the entire issue in manner known to law, after giving opportunity to the petitioner and also to the third respondent and giving further opportunity to them to also file written representations. No order as to costs. Consequently, connected miscellaneous petition is closed.

07.06.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes / No

RM



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C.V.KARTHIKEYAN, J.

RM

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