



WP(MD)Nos.18390 of 2022, etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)Nos.18390 of 2022; 2109, 5157, 15606, 15938, 16072, 16105, 16401, 16653, 16801, 16806, 16900, 17011, 17122, 17451, 17642, 17685, 17861, 17907, 17911, 17912, 17913, 17970, 18021, 18023, 18153, 18167, 18484, 18564, 18763, 18977, 19078, 19086, 19337, 19451, 19458, 19475, 20673, 20737, 20770, 20798, 20802, 21902, 22241, 22629, 22901 of 2023**

**and**

**WMP(MD)Nos.18837, 14916, 13461, 13462, 13495, 13496, 13497, 13911, 14701, 14231, 14232, 14956, 15043, 15041, 15133, 15136, 15153, 15821, 15822, 15829, 16103 of 2023**

**WP(MD)No.18390 of 2022:-**

Sundararajan Vijayaramalingam

... Petitioner

v.

1. ...

2. Inspector General of Registration,  
100, Santhome Road,  
Pattinapakkam.

3. District Registrar,  
171, Palace Road, Madurai.

1/11



WP(MD)Nos.18390 of 2022, etc., batch

4.Sub-Registrar IV,  
420, Keelatheru, Palanganatham Bus Stand,  
Madurai – 625 003.

5.The Superintendent of Police (Madurai Rural),  
Alagar Kovil Road,  
Opp. to Surveyor Colony,  
Madurai.

6.M.Radha Kumari

... Respondents

[R.1 deleted vide order dated 27.09.2023]

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 3 & 4 to cancel the document in No.2401/2010 and to restore to its original position of its registration.

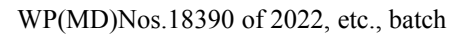
For Petitioner : Mr.Sundararajan Vijayaramalingam  
(Party-in-person)

For Respondents : Mr.G.V.Vairam Santhosh,  
Additional Government Pleader  
for R.2 to R.4

Mr.P.Kottaichamy,  
Government Advocate (Crl. Side)  
for R.5

No appearance for R.6

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WP(MD)Nos.18390 of 2022, etc., batch

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(iv) The writ petitions in WP(MD)Nos.5157, 17011, 18167, 19086 of 2023 are filed challenging the orders passed by the District Registrars refusing to cancel the registered documents – Fourth Set.

2.In short, the issue in all these writ petitions is with regard to cancellation of forged documents and as such, all these writ petitions are disposed of by way of this common order.

3.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 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



WP(MD)Nos.18390 of 2022, etc., batch

provides the power to the Registrar to cancel registered documents, if it is found to be in contravention of sections 22A and 22B.

4. Whereas, this Court in ***S.M. Hajabakrutheen 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 may await further orders of the Larger Bench.”*

5.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:-

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*“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 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”*

6.Admittedly, in all these writ petitions, the alleged fraudulent documents were registered prior to the amendment to the Registration (Tamil Nadu Second Amendment) Act, 2021, dated 16.08.2022.



WP(MD)Nos.18390 of 2022, etc., batch

WEB COPY 7. Under such circumstances and in view of the above decisions, this

Court dispose of these writ petitions in the following terms:-

i) The petitioners in WP(MD)Nos.18390 of 2022, 2109, 15606, 15938, 16401, 16653, 16801, 16806, 16900, 17122, 17451, 17642, 17685, 17861, 17911, 17912, 17913, 17970, 18021, 18484, 18564, 18763, 18977, 19337, 19451, 19458, 19475, 20673, 20737, 20770, 20798, 20802, 21902, 22241, 22629, 22901 of 2023 & WP(MD)Nos.5157, 17011, 18167, 19086 of 2023 and the contesting respondents in WP(MD)Nos.16072, 16105, 18023, 19078 of 2023 & WP(MD)Nos.17907, 18153 of 2023 are at liberty to approach the competent civil Courts and if any civil suit is filed, the same shall be entertained by the civil Courts by excluding the period for which these writ petitions were pending before this Court for the purpose of calculating the limitation period. These petitioners and the contesting respondents are also at liberty to invoke Section 77A of the Act upon the outcome of the reference made.



WP(MD)Nos.18390 of 2022, etc., batch

ii) Since this Court has not dwelled into the merits of the case, the show cause notices issued by the District Registrars for cancellation of alleged fraudulent deeds which are impugned in WP(MD)Nos.16072, 16105, 18023, 19078 of 2023; the orders passed by the District Registrars cancelling the registered documents which are impugned in WP(MD)Nos.17907, 18153 of 2023; and the orders passed by the District Registrars refusing to cancel the registered documents which are impugned in WP(MD)Nos.5157, 17011, 18167, 19086 of 2023 shall be kept under abeyance, till the reference is answered by the Larger Bench.

There shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Index : Yes / No  
NCC : Yes / No  
gk

**27.09.2023**



WP(MD)Nos.18390 of 2022, etc., batch

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**B.PUGALENDHI, J.**

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