



W.P.(MD)No.17445 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.17445 of 2023

and

W.M.P.(MD)Nos.14621 and 14622 of 2023

1. P.Subbiah Yadav

2. P.Sudalimani

... Petitioners

versus

1. The Enquiry Officer/District Registrar,
District Registration Office,
Palayamkottai,
Tirunelveli – 2.

2. The Sub-Registrar,
Kayathar Sub-Registrar Office,
Thoothukudi District.

3. Muthupandiyan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records in Na.Ka.No.3133/A3/2023 dated 22.06.2023 on the file of the 1st respondent and quash the same as illegal.



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For Petitioner : Mr.S.Kumar

For R1 and R2 : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner has filed this writ petition as against the order passed by the first respondent/the District Registrar, Palayamkottai, Tirunelveli, in Na.Ka.No.3133/A3/2023 dated 22.06.2023. The District Registrar, Palayamkottai, has passed the impugned order on the application filed by one Muthupandiyan, who is the 3rd respondent herein.

2. The learned counsel appearing for the petitioner submits that the document cancelled by the first respondent/the District Registrar was the Document which was registered in the year 2010. Section 77A of the Registration Act came into effect only in the year 2022. Therefore, the District Registrar is not having power to deal with the document which was registered in the year 2010.



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3. The learned Additional Government Pleader appearing for the respondents 1 and 2 submits that there are two conflicting views on this issue as to whether Section 77A of the Registration Act can be implemented prospectively or retrospectively. He further submits that even prior to the enactment of Section 77A of the Registration Act, power has been conferred to the District Registrar to conduct an enquiry as per Circular 67 dated 03.11.2011 and the same was upheld by this Court. However, in view of the order passed by the Hon'ble Supreme Court in the case of *Satya Pal Anand v. State of M.P.*, [(2016) 10 SCC 767], the Government has withdrawn the said circular and has now amended the Registration Act by incorporating Section 77A.

4. The issue as to whether Section 77A can be applied prospectively or retrospectively is yet to be decided by the Larger Bench and therefore, as on date, there is no bar prohibiting the respondents from passing orders.



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5. The learned Special Government Pleader, by referring to the provisions under Section 77B of the Registration Act, submits that the petitioner is having an appeal remedy before the Inspector General of Registration.

6. Since the issue is yet to be decided by the Larger Bench on the applicability of the provisions under Section 77A of the Registration Act, this writ petition is disposed of by granting liberty to the petitioner to file an appeal before the Inspector General of Registration under Section 77B of the Registration Act. The petitioner can also avail the benefits in the event a decision has been taken by the Larger Bench in his favour. No costs. Consequently, connected miscellaneous petitions are closed.

20.07.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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