



W.P(MD)No.17827 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.17827 of 2014 and
MP(MD) No.1 of 2014

Non Gazetted Officer Co-operative
Housing Society Ltd, O.1847,
Represented by its President,
Mr.G.Subbiah,
N.G.O.'A' Colony,
Jawahar Nagar,
Tirunelveli – 627 007.

...Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Tirunelveli Registration District,
Palayamkottai,
Tirunelveli.

3.The Sub-Registrar,
O/o the melapalayam Sub Registrar,
Melapalayam,
Tirunelveli District.

4.M.Rajan

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned orders passed by the third respondent in Na.Ka.No.21/2014, dated 13.02.2014 and the consequential order passed by the second respondent in No.576/Aa2/2014, dated Nil 05.2014 and quash the same and consequently direct the respondents 2 & 3 to cancel the forged deeds registered in Document Nos.1907/2004 and 4450/2004 in respect of petitioner's property situated in S.No.819, N.G.O. B Colony, Palayamkottai Taluk, Tirunelveli District in the light of the circular issued by the first respondent in Circular No.67, dated 03.11.2011 (C.No.52338/C1/2011).

For Petitioner	: Mr.M.Saravanakumar
For R1 to R3	: Mr.S.Shaji Bino Special Government Pleader
For R4	: No appearance

ORDER

The petitioner sought for cancellation of the documents executed by the fourth respondent in Document Nos.1907/2004 and 4450/2004 in respect of the petitioner's property situated in S.No. 819, N.G.O.B Colony, Palayamkottai Taluk, Tirunelveli District.



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The respondents have rejected the request of the petitioner stating that there cannot be any unilateral cancellation. Aggrieved over the same, the petitioner has filed this writ petition.

2.The learned counsel appearing for the petitioner submits that the petitioner's Society is the Co-operative Housing Society, which is functioning under the Tamil Nadu Co-operative Societies Act, 1983 and Tamil Nadu Co-operative Housing Societies Rules, 1988. The petitioner's Society purchased 3.82 acres of land comprising in S.No.819 in N.G.O. B Colony, Tirunelveli District and they have converted the land into house plots and sold the same to its members. While so, the fourth respondent has encroached the road margin of the petitioner's property and constructed a coffee shop and approached the petitioner with a request to assess the land and fix rent for the encroached portion of land. The petitioner's Society has rejected the request of the fourth respondent and filed a suit in O.S.No.279 of 1998 as against the fourth respondent. After several litigations over the years, the right of the petitioner on the



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suit schedule property was confirmed by this Court in Second Appeal No.78 of 2013, dated 01.10.2018. However, the fourth respondent obtained a patta from the Revenue authorities for a portion of the petitioner's Society, based on which, he also registered two settlement deeds in Document No.1907/2004 and 4450/2004. Therefore, the petitioner has approached the authorities concerned and has also filed this writ petition for cancelling the documents, which have been fraudulently registered.

3.The learned Special Government Pleader appearing for the respondents 1 to 3 submits that there is no provision for an unilateral cancellation of the registered documents. He further submits that initially, the Inspector General of Registration, Chennai has issued a Circular No.67, dated 03.11.2011 (C.No. 52338/C1/2011) for dealing with the complaints relating to fraudulent registrations through impersonation or production of false documents and evidence and the circular has been withdrawn pursuant to the orders of the Honourable Supreme Court in *Satya*



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Pal Anand v. State of M.P., [(2016) 10 SCC 767]. Therefore, this

writ petition cannot be maintained.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The Inspector General of Registration vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017 has withdrawn the Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of Hon'ble Supreme Court in ***Satya Pal Anand v. State of M.P., [(2016) 10 SCC 767]***. In the said decision, the Hon'ble Supreme Court has held 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.



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6. Thereafter, 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, Sections 22B, 77A, 77B, 81A and 81B were inserted in the Registration Act. Section 77A provides the power to the Registrar to cancel the registered documents, if found to be fraudulent. However, this Court in ***S.M. Hajabakruthen v. The Inspector General of Registration [W.P.(MD)Nos.14546 of 2022, etc., batch dated 27.03.2023]*** has referred the issue regarding the applicability of Section 77A of the Act to the documents that were registered prior to its enactment, for consideration by a Larger Bench of this Court.

7. In view of the above position, this writ petition is disposed of with a liberty to the petitioner to approach the competent civil Court for declaring the documents claimed to be registered fraudulently as null and void by referring the Judgment passed in the Second appeal. If any suit is filed by the petitioner afresh, the same



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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. Liberty is also granted to the writ petitioner to invoke Section 77A of the Act upon the outcome of the reference made. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.06.2023

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