



WP(MD)No.7569 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 10.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.7569 of 2014
and
MP(MD)No.1 of 2014

S.K.N.S.Sekkappan (Died)

S.Padmavathi

... Petitioner

[Petitioner substituted vide order dated 10.04.2023 made in WMP(MD)No.
3905 of 2022]

v.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 4.

2.The Assistant Inspector General of Registration,
District Registrar's Office Complex,
Tiruchirappalli – 1.

3.The District Registrar,
Tiruchirappalli.

4.Dharmaraj

... Respondents



WP(MD)No.7569 of 2014

WEB COPY Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the third respondent from proceeding with the enquiry initiated in Na.Ka.No.2871/A1/2014 dated 08.04.2014 for cancelling the sale deed dated 12.07.2011 bearing Doc.No. 6437 on the file of the Sub Registrar, Thiruverambur.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for R.1 to R.3

No appearance for R.4

ORDER

This writ petition is filed by the petitioner for a mandamus forbearing the third respondent / District Registrar from proceeding with the enquiry initiated in the light of Circular No.67, dated 03.11.2011, in Na.Ka.No. 2871/A1/2014, dated 08.04.2014, for cancelling the sale deed dated 12.07.2011.



WP(MD)No.7569 of 2014

WEB COP

2.The fourth respondent appears to have lodged a complaint that the petitioner has created some fraudulent documents and using the same, the petitioner has created the sale deed dated 12.07.2011. Based on the complaint of the fourth respondent, the third respondent / District Registrar appears to have initiated an enquiry in Na.Ka.No.2871/A1/2014 and by notice dated 08.04.2014, called upon the petitioner for enquiry.

3.The grievance of the petitioner is that the third respondent has not furnished the copies of the documents, which were enclosed by the fourth respondent along with the complaint, enabling the petitioner to submit the response effectively. The petitioner has also questioned the jurisdiction of the third respondent in cancelling a sale deed.

4.The Inspector General of Registration vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017 has withdrawn the Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of Hon'ble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



WP(MD)No.7569 of 2014

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.

5. 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.



WP(MD)No.7569 of 2014

WEB COPY

6. In view of the above position, this writ petition is disposed with a liberty to the fourth respondent to approach the competent civil Court. If any suit is filed by the fourth respondent, 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. Liberty is also granted to the fourth respondent to invoke Section 77A of the Act upon the outcome of the reference made. The petitioner shall raise his defence, including the grounds raised in this writ petition, before the appropriate forum. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

10.04.2023

NCC : Yes / No

gk

To

1. The Inspector General of Registration,
No.100, Santhome High Road, Chennai – 4.
2. The Assistant Inspector General of Registration,
District Registrar's Office Complex,
Tiruchirappalli – 1.

5 / 6



WEB COPY



WP(MD)No.7569 of 2014

B.PUGALENDHI, J.

gk

3.The District Registrar,
Tiruchirappalli.

WP(MD)No.7569 of 2014

10.04.2023