



WP(MD)No.7520 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.7520 of 2017

A.Angel John

... Petitioner

v.

1.The District Registrar (Administration),
District Registrar's Office,
Tiruchirappalli – 620 001.

2.The Sub Registrar,
Sub Registrar's Office,
Mannachanallur,
Tiruchirappalli District – 621 105.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 01.09.2016 to cancel the alleged sale deed No.1841/2006 dated 28.08.2006 registered in the office of the second respondent in respect of the land comprised in S.F.No.52/9 to an extent of Ac.0.39 cents, Samayapuram Village, Mannachanallur Taluk, Tiruchirappalli District.



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For Petitioner : No appearance

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

ORDER

The petitioner filed this writ petition for a mandamus directing the respondents to consider his representation dated 01.09.2016 and to cancel the sale deed in No.1841/2006 dated 28.08.2006.

2. There is no representation for the petitioner, even though the matter is listed under the caption 'for dismissal'.

3. The grievance of the petitioner is that pending a partition suit, one of the co-sharers has executed the sale deed dated 28.08.2006 and now, the partition suit ended in his favour. Therefore, with the decree passed by the civil Court, the petitioner has approached the respondents for cancelling the sale deed dated 28.08.2006 and also approached this Court.



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4.Learned Additional Government Pleader, on instructions, submitted that unilateral cancellation of sale deed, which was already registered, is not feasible. He further submitted that the petitioner can approach the registration authority under Section 77A of the Registration Act for cancelling the document.

5.This Court considered the submissions made by the learned Additional Government Pleader and also the averments made in this petition.

6.The case of the petitioner is that the co-sharer has executed the document without any authority, when the suit for partition was pending. Subsequently, it appears that this petitioner has succeeded in the suit and the property in S.F.No.52/9 devolved on him. Therefore, the petitioner has approached the authorities for cancelling the document dated 28.08.2006.

7.Section 77A of the Registration Act provides the power to the Registrar to cancel the registered documents, if found to be fraudulent. However, this Court in ***S.M. Hajabakrutheen v. The Inspector General of Registration [W.P.(MD)Nos.***



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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.

8. In view of the above position, this writ petition is disposed with a liberty to the petitioner to approach the competent civil Court. If any suit is filed by the petitioner, 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 writ petitioner to invoke Section 77A of the Act upon the outcome of the reference made. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
gk

16.06.2023

To

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B.PUGALENDHI, J.

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