



W.P.(MD)No.7655 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.7655 of 2017

Gunasekaran

... Petitioner

versus

1. The Inspector General of
Registration,
Registration Department,
Santhom,
Chennai – 28.
2. The District Registrar (Administration),
Virudhunagar,
Virundhunagar District.
3. The Sub-Registrar,
Sub Registrar Office,
Kariyapatti,
Virudhunagar District.
4. K.Malaiyala Bagavathi
5. Udaiyar Thevar @ Chellam
6. Meyyan



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7. Sethuraman

8. Murugan

9. Mayandi

10. J.Jesuraj

11. Vardhan Foods Private Limited,
No.23, Wazir Turind Area,
Delhi – 110 052.

12. Anujujain

13. R.Pramodkumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents 1 to 3 to conduct an enquiry about registration of fraudulent power of attorney registered as Document No.127/2006 dated 09.06.2006 and sale deed registered as Document No.1299/2006, dated 14.06.2006 at the 3rd respondent office by respondents 4 to 13 pertaining to the petitioner's land of Survey No.4/1, situated at Timmapuram Village, Kariyapatti Taluk, Virudhunagar District and consequently, cancel both the documents.

For Petitioner	: No appearance
For R1 to R3	: Mr.P.T.Thiraviam, Government Advocate



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For R4 to R13 : No appearance

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ORDER

The petitioner has filed this writ petition for a Mandamus, directing the respondents 1 to 3 to conduct an enquiry about registration of fraudulent power of attorney registered as Document No.127/2006 dated 09.06.2006 and sale deed registered as Document No.1299/2006, dated 14.06.2006 on the file of the the 3rd respondent office by respondents 4 to 13 pertaining to his land in Survey No.4/1, situated at Timmapuram Village, Kariyapatti Taluk, Virudhunagar District and cancel both the documents.

2. Initially, there was no provision under the Registration Act for the cancellation of any document registered by a Registering Officer. The Inspector General of Registration has issued Circular No.67 dated 03.11.2011, setting out the procedures to deal with fraudulent registration . Thereafter, the Inspector General of Registration vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017 has



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withdrawn the said 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.

3. 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. Hajabakrutheen v. The Inspector General of*



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Registration [W.P.(MD)Nos.14546 of 2022, etc., batch dated

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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.

4.In view of the above position, this writ petition is disposed of with a liberty to the petitioner to approach the competent civil Court to work out his remedy. 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.

09.06.2023

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

B.PUGALENDHI, J.



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