



W.P.(MD)No.8419 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.8419 of 2017

and

W.M.P.(MD)Nos.6514 and 18720 of 2017

A.Sultan Khan

... Petitioner

versus

1. Inspector General of Registration,
100 Santhome High Road,
Fore Shore Estate,
Chennai – 600 028.

2. Joint Registrar No.1 & 2,
Office of the Registration,
Cantonment
Trichy – 1.

3. District Registrar,
Office of the Registration
Cantonment,
Trichy – 1.

4. The Sub Registrar,
Office of Sub Registration,
Uraiyur,
Trichy – 18.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents 3 and 4 to consider the representation dated 09.03.2017 seeking for cancellation of the registration of documents bearing Nos. 1619/1973 by respondent No. 3 and documents Nos.521/15, 1415/15, 1416/15 and 3410/15 by respondent No.4 and enquire the same.

For Petitioner : No appearance

For R1 to R3 : Mr.P.T.Thiraviam,
Government Advocate

For R4 to R13 : No appearance

ORDER

The petitioner has filed this writ petition alleging that the document No.1619/1973 registered on the file of the third respondent and document Nos.521/15, 1415/15, 1416/15 and 3410/15 registered on the file of the fourth respondent are bogus documents and therefore, the same have to be cancelled by conducting enquiry.



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Thereafter, the Inspector General of Registration vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017 has withdrawn the said Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of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



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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 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.

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



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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 petitions are closed.

09.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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