



WP(MD)No.14208 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.14208 of 2016

Navis Rajakumari
Rep. through her power agent
K.Narayanan

: Petitioner

Vs.

1.The Inspector General of Registration,
O/o.the Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Registration Department,
Dindigul District,
Dindigul.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to conduct enquiry on the basis of Circular No.67, dated 03.11.2011 by considering the petitioner's representation dated 16.10.2015 & 25.07.2016, within a stipulated time limit.



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WP(MD)No.14208 of 2016

For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.M.Ramesh,
Government Advocate

ORDER

This writ petition is filed by the petitioner to conduct enquiry under Circular No.67, Registration Department dated 03.11.2011, by considering the petitioner's representations dated 16.10.2015 and 25.07.2016.

2.The case of the petitioner is that the subject property was originally purchased by her father-in-law and it was allotted to her husband's share in family partition. The property was sold to the petitioner's father-in-law vide Doc.No. 1781 of 1999 dated 18.08.1994. Later, the vendor of that sale unilaterally cancelled the sale through a cancellation deed dated 19.04.1999 vide Doc.No.1210 of 1999. The petitioner further submits that in view of the cancellation deed, the vendor created a power of attorney and executed subsequent sale deeds illegally. Hence, the petitioner seeks to cancel the subsequently created sale deeds by invoking Circular No.67.



WP(MD)No.14208 of 2016

WEB COPY

3.The second respondent / District Registrar has filed a counter affidavit stating that the representation of the petitioner was considered vide proceedings in Na.Ka.No.4193/Aa3/2016 dated 04.08.2016. But the petitioner failed to annex the disputed documents to the respondent and when the petitioner was requested to submit necessary documents, this writ petition was filed by the petitioner. Hence, the second respondent could not pass any orders on this issue.

4.The Inspector General of Registration vide his proceedings in letter No. 41530/u1/2017 dated 20.10.2017 withdrew 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]***, wherein it was held that that the power to cancel the registration is a substantive matter and that 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 registered documents.

5.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 of the Act provides the power to the Registrar to cancel 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 applicability of Section 77A to documents registered prior to its enactment, for consideration by a Larger Bench of this Court.

6.The petitioner herein challenges the unilaterally cancellation of sale deed and subsequently created sale deeds. This Court in ***Latif Estate Line India Ltd. and Ors. v. Hadeeja Ammal and Ors. [AIR 2011 Mad 66]*** has held that a deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or extinguish any right, title or interest in the property and such a document does not create any encumbrance in the property already transferred. Hence, such a deed of cancellation cannot be accepted for registration. However, the petitioner has not filed the disputed documents in this writ petition either.

7.Therefore, this Court disposes of this writ petition with a liberty to the petitioner to approach the competent civil Court and if any suit is filed, the same



WP(MD)No.14208 of 2016

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. The petitioner is also at liberty 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

20.06.2023

NCC : Yes / No

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To

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WP(MD)No.14208 of 2016

B.PUGALENDHI, J.

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WP(MD)No.14208 of 2016

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