



W.P.(MD)No.19225 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19225 of 2016

and

W.M.P.(MD)Nos.13878 and 13879 of 2016

K.P.Jeyapaul Asan

... Petitioner

versus

1. The Inspector General of Registration,
Head Office of Registration Department,
Chennai – 28.
2. Stanley Baburaj
3. Leelavathy (died)
4. Mary Bai
5. Einstein Selvan
6. Ida Jebakkani
7. R.D.Kalaikumari
8. Kalaigiri



W.P.(MD)No.19225 of 2016

9. Sunda Balies

10. Srija

... Respondents

(Notice not necessary for the 3rd respondent)

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in No.7539/U1/2016 dated 19.08.2016 and quash the same and consequently cancel the forged partition deed No.1538/1976 of Palliyadi Sub Registrar, dated 05.06.1976 and subsequent forged sale deed No.1103 of 2012 and 1104 of 2012 dated 08.12.2011 of Palliyadi Sub Registrar Office as per Circular No.67, dated 03.11.2011.

For Petitioner : Mr.C.Sankar Prakash

For R1 : Mr.G.V.Vairam Santhosh
Additional Govt. Pleader

For R2 to R6

R9 and R10 : No appearance

For R7 : No appearance

For R8 : No appearance

ORDER

This petitioner has filed this writ petition seeking to cancel the forged partition deed No.1538/1976 registered at Palliyadi Sub



W.P.(MD)No.19225 of 2016

Registrar, dated 05.06.1976 and the subsequent forged sale deed Nos. 1103 of 2012 and 1104 of 2012 dated 08.12.2011 registered at Palliyadi Sub Registrar Office, as per Circular No.67, dated 03.11.2011.

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 The Inspector General of Registration, vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017, has withdrawn the said Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of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



W.P.(MD)No.19225 of 2016

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 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. 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



W.P.(MD)No.19225 of 2016

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. Consequently, connected miscellaneous

petitions are closed.

30.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Inspector General of Registration,
Head Office of Registration Department,
Chennai – 28.



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W.P.(MD)No.19225 of 2016

B.PUGALENDHI, J.

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W.P.(MD)No.19225 of 2016

30.06.2023