



W.P.(MD)No.20525 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20525 of 2016
and W.M.P.(MD)No.14696 of 2016

B.Banumathi

... Petitioner

versus

1. The Inspector General of Registration,
Santhome High Road,
Santhome, Mylapore,
Chennai.

2. The District Registrar of Registration,
Madurai Registration District,
Office at Rajakambeeram,
Y.Othakadai,
Madurai.

3. The Sub Registrar,
Melur,
Madurai District.

4. V.R.Nagarajan

5. M.Murugesan

6. M.Muthumurugan

... 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 2 and 3 to consider the representation given by the petitioner dated 13.10.2016 given to cancel the fraudulent registration made in document No.1716/2016 registered at the 3rd respondent's office in respect of petitioner's joint family property on the basis of Circular No.67 dated 03.11.2011 issued by the first respondent.

For Petitioner : Mr.K.Samidurai
For R1 to R3 : Mr.P.T.Thiraviam,
Government Advocate
For R4 : No appearance
For R5 and R6 : Mr.S.Muthu Maharaja

ORDER

The petitioner has filed this writ petition alleging that the document which has been registered as Document No.1716/2016 on the file of the 3rd respondent is a fraudulent document and therefore, it has to be cancelled by conducting an enquiry as per Circular No.67 dated 03.11.2011.

2. The Inspector General of Registration vide his proceedings in



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letter No.41530/u1/2017 dated 20.10.2017 has withdrawn the Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of Hon'ble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

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 her 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. Consequently, connected miscellaneous petition is closed.

06.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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B.PUGALENDHI, J.

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