



WP(MD)No.22359 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14.06.2023

CORAM:

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

WP(MD)No.22359 of 2016

N.Ramalaxmi

... Petitioner

Vs

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

2.The District Registrar,
Office of the District Registrar,
Tirunelveli District Collector Office Campus,
Kokkirakulam,
Tirunelveli.

3.The Sub-Registrar,
Kalugumalai Sub Registrar Office,
Tuiticorin District.

4.S.Kangalakshmi

5.Srinivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the 2nd respondent to annul the fraudulent registration made in document No.36/111/2015 dated 25.06.2015 registered at the 3rd respondent's office in respect of petitioner's property in Survey No.492/1 measuring an extent of 3454 in Kuruvikulam village, Sankarankoil Taluk, Tirunelveli



WP(MD)No.22359 of 2016

District by considering the representation of the petitioner dated 17.08.2016.

WEB COPY

For Petitioner : Mr.M.Gnanagurunathan
For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner filed this writ petition for a mandamus directing the 2nd respondent to consider his representation dated 17.08.2016 and to cancel the sale deed in document No.36/111/2015 dated 25.06.2015 registered at the 3rd respondent's office in respect of petitioner's property in Survey No.492/1 measuring an extent of 3454 in Kuruvikulam village, Sankarankoil Taluk, Tirunelveli District

2.The Inspector General of Registration vide his proceedings in letter No.41530/u1/2017 dated 20.10.2017 has withdrawn the Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of Hon'ble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



WP(MD)No.22359 of 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. 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 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.



WP(MD)No.22359 of 2016

4. In view of the above position, this writ petition is disposed 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.

14.06.2023

dsk

To

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.
2. The District Registrar,
Office of the District Registrar,
Tirunelveli District Collector Office Campus,
Kokkirakulam,
Tirunelveli.
3. The Sub-Registrar,
Kalugumalai Sub Registrar Office,
Tuiticorin District.



WEB COPY



WP (MD) No.22359 of 2016

B.PUGALENDHI , J.

dsk

WP (MD) No.22359 of 2016

14.06.2023