



WP(MD)No.17911 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

WP(MD)No.17911 of 2017
and
WMP(MD)No.14428 of 2017

A.Subramaniyan @ Manikutty

... Petitioner

v.

1.The Inspector General of Registration,
O/o.Inspector General of Registration,
Santhome, Chennai.

2.The District Registrar (Administration),
District Registrar Office,
Tenkasi,
Tirunelveli District.

3.The Sub Registrar,
Sub Registrar Office,
Surandai,
Tirunelveli District.

4.Ayyanaar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Mandamus directing the respondents 1 & 2 to



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cancel the sale deed registered in Doc.No.188 of 2016 dated 22.01.2016 on the file of the third respondent in the light of Circular No.67 dated 03.11.2011.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.M.Sarangan,
Additional Government Pleader
for R.1 to R.3

Mr.J.Jeyakumaran
for R.4

ORDER

The petitioner filed this writ petition for a mandamus directing the second respondent to cancel the sale deed in Doc.No.188 of 2016, dated 22.01.2016, on the file of the third respondent in the light of Circular No.67, dated 03.11.2011 issued by the first respondent.

2.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.*



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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. 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.

4. In view of the above position, this writ petition is disposed with a liberty to the petitioner to approach the competent civil Court. If any suit is filed by the



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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.

Index : Yes / No
NCC : Yes / No
gk

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B.PUGALENDHI, J.

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