



W.P.No.249 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.249 of 2024

Annie Lilybai Sunder

... Petitioner

Vs.

The Inspector General of Registration,
No.100, Santhome High Road,
Mulima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai – 600 028.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to consider the letter dated 04.05.2022 bearing Letter No. 48916/U2/2021 and further direct the respondent to conduct the enquiry within the time limit and to take action and remove the illegal transaction from the encumbrance.

For Petitioner : Mr.M.Madhu Prakash

For Respondent : Mrs.V.Yamunadevi



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Special Government Pleader
ORDER

This Writ Petition has been filed to direct the respondent to consider the letter dated 04.05.2022 bearing Letter No. 48916/U2/2021 passed by the Registration Department, Chennai-28 and further to direct the respondent to conduct the enquiry within the time limit.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent.

3. It is the contention of the learned counsel for the petitioner that this Court, vide order dated 02.02.2022 in W.P.No.1386 of 2022, directed the first respondent herein to issue notice and conduct enquiry and to pass order on merits and also directed the petitioner to submit a fresh representation. As per the said order of this Court, the petitioner made fresh representation before the respondent. Though the respondent issued notice for enquiry subsequently neither enquiry was conducted nor final order was passed. Hence, the petitioner is constrained to file



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the present writ petition.

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4. Learned Special Government Pleader appearing for the respondent submitted that subsequent to the order of this Court, there is an amendment in the Registration Act and Sections 77-A and 77-B have been inserted. Subsequently, there is a divergent view regarding the maintainability/applicability whether the section was to be applied retrospectively or prospectively. Now, a Larger Bench has been constituted to answer for divergent view of the learned Single Judge of this Court. Hence, the Inspector General of Registration, Chennai, has issued a Circular No.03 of 2023 in Letter No.36330/U1/2023 dated 29.09.2023, wherein it is stated that pursuant to the directions of this Court, all the District Registrars in Tamil Nadu have been directed not to take any further action on the application under Section 77-A of the Registration Act till a final decision is rendered by the Larger Bench of this Court. Hence, the respondent is unable to proceed with the enquiry.



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5. Admittedly, this Court, vide order dated 02.02.2022 in W.P.No.1386 of 2022 filed by the petitioner herein, has given direction to the petitioner to make a fresh representation and on making such representation, the respondent herein was directed to conduct enquiry and pass orders. Subsequent to the order of this Court, Sections 77-A and 77-B of Registration have been amended. There is a divergent view expressed by the learned single Judge of this Court, the matter was referred to Larger Bench to answer for certain clarifications raised on it. Based on the same, now Larger Bench has been constituted and amendment in Sections 77-A and 77-B of the Act is under consideration before the Larger Bench of this Court. Based on the same, the first respondent has also issued circular regarding the enquiry under Section 77-A of the Act. Hence, the respondents are unable to prosecute the same and the petitioner is not entitled to the relief sought for in this writ petition.



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6. In view of the above, the Writ Petition is dismissed. There shall be no order as to costs. However, the petitioner is at liberty to work out her remedy before the Civil Court or she shall wait till the outcome of the decision of the Larger Bench of this Court, if she is so advised.

09.01.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Inspector General of Registration,
No.100, Santhome High Road,
Mulima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai – 600 028.



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P.VELMURUGAN, J.

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