



WEB COPY



W.P.No.734 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.734 of 2024

Ma.Rudran @ Kendan

... Petitioner

Versus

- 1.The Deputy Inspector General of Registration,
312, III Floor, Collectorate, Salem – 636001.
- 2.The District Registrar,
No.1, Thiruvannamalai Road,
Krishnagiri – 635001.
- 3.The Sub Registrar,
Denkanikottai, Krishnagiri District.
- 4.Mahadevamma
- 5.Ambiga
- 6.K.Veerabathirappa
- 7.K.Rutiramma
- 8.K.Nanjappa
- 9.K.Sivaruthirappa
- 10.Rajappa
- 11.Samraj
- 12.Linga Madappa
- 13.Bajappa
- 14.Markandeyya

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution



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of India praying for issuance of Writ of Mandamus directing the 2nd respondent to conduct enquiry and pass appropriate orders on the petitioner's appeal dated 23.04.2023 within stipulated time period.

For Petitioner : Mr. T. Sundaravadanam

For Respondents : Mrs. V. Yamunadevi (for R1 to R3)
Special Government Pleader

ORDER

Mrs. V. Yamunadevi, learned Special Government Pleader takes notice on behalf of the official respondents.

2. This writ petition has been filed seeking a mandamus simplicitor to direct the second respondent to consider the petitioner's appeal dated 23.04.2023, and pass orders within a stipulated period as may be fixed by this Court.

3. Since no adverse orders are being passed against the private respondents, notice to them is hereby dispensed with.

4. The claim of the petitioner is that the petitioner's father,



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namely, Mr.Gudikadu Madaiya, who is the actual owner of the property in S.No.149/2B, Kottaiyur Village, Anchetty Taluk, Krishnagiri District to the extent of 1 acre 24 cents, died leaving behind three legal heirs, namely, 1. Samraj, 2. Late. Kottai Rudrappa and 3. Rudran @ Kendan. The said Late. Kottai Rudrappa executed a sale deed in Doc.No.1314 of 1995 dated 01.06.1995 in favour of the respondent No.10 without disclosing the actual legal heirs of the said Late. Gudikadu Madaiya. Following the same, some of the private respondents had also executed the sale deeds in respect of the said property in question, which are not done legally, and hence, it is liable to be cancelled. Hence, it is a clear case of forgery committed by the private respondents. Therefore, the petitioner approached the official respondents to cancel the sale deeds executed illegally by the private respondents, after issuing notice and to conduct enquiry in the manner known to law, due to which, the petitioner has also submitted an appeal dated 23.04.2023 before the second respondent. Since there was no response from the official respondents, the petitioner has constrained to file the present writ petition before this Court for the above said relief.

5. The learned counsel for the petitioner submitted that it is the main grievance of the petitioner that though in Section 77-A of the



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Registration Act has been stayed by this Court, the prior Section 68(2) of the Act is still existing, but, the second respondent has not followed the same to proceed with the petitioner's request. Therefore, he prayed this Court to give a direction to the official respondents to follow the earlier procedures before the amendment and to consider the petitioner's appeal dated 23.04.2023.

6. Already, this Court had given a divergent view in respect of the Section 77-A of the Registration Act, 1908, and the issue is pending before the Larger Bench of this Court and in respect of same, the Inspector General of Registration issued a Circular No.03/2023, in Letter No.36330/U1/2023 dated 29.09.2023, and the same was also communicated to all the District Registrars in Tamil Nadu requesting them not to proceed further in connection with the enquiry to be conducted under Section 77-A of the Registration Act, until the final decision is rendered by the Larger Bench. Therefore, the District Registrar cannot conduct the enquiry at this stage.

7. Since the petitioner has got an alternative remedy, either he can approach the Civil Court or otherwise he can wait for the outcome of



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the decision of the Larger Bench.

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8. Therefore, this Court cannot issue a direction to the second respondent to consider the petitioner's appeal dated 23.04.2023, and to conduct enquiry and pass orders thereon at this stage. However, the petitioner is at liberty to work out his remedy before the Civil Court in the manner known to law.

9. With the above direction, the Writ Petition is disposed of. No costs.

11.01.2024

Index : yes/no
Speaking order : yes/no
Neutral Case Citation : yes/no

klt

To:

1.The Deputy Inspector General of Registration,
312, III Floor, Collectorate, Salem – 636001.

2.The District Registrar,

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No.1, Thiruvannamalai Road,
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P. VELMURUGAN, J.

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