



W.P.No.2132 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2132 of 2024

and

W.M.P.No.2282 of 2024

A.P.Baskaran

... Petitioner

versus

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

2.The Deputy Inspector General of Registration,
Cuddalore, Cuddalore District.

3.The District Registrar,
Villupuram, Villupuram District.

4.The Sub Registrar,
Sub Registrar Office,
Vikkiravandi.

5.Kumaravel

.....Respondents

Pg.Nos.1/9



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Writ Petition filed under Article 226 of Constitution of India, praying

to issue a Writ of Mandamus, directing the respondents 1 to 4 authorities to conduct enquiry and make appropriate endorsement declaring the partition deed dated 10.02.2004 bearing Doc.No.265/2004 as fraudulent one on the basis of the petitioner's representation dated 15.10.2021 and 23.02.2023.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
for R1 to R4

ORDER

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for respondents 1 to 4. Since this writ petition is being disposed of without passing any adverse orders against the fifth respondent, affecting his interest, notice to the fifth respondent is dispensed with.

2. This writ petition has been filed seeking for a mandamus directing respondents 1 to 4 to conduct enquiry and make appropriate endorsement declaring the partition deed dated 10.02.2004, bearing Doc.No.265/2004 as



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fraudulent one on the basis of the petitioner's representation dated 15.10.2021 and 23.02.2023.

3. It is the case of the petitioner that originally the property ad-measuring 1.24 acres comprised in S.No.178/4 situated at Mundiampakkam Village, Vikkiravandi Taluk, Villupuram District belongs to one Kullappa Chettiyar. By virtue of oral partition, four sons of Kullappa Chettiyar allotted each 31 cents and continued to be in possession individually. While so, one of the four sons (Murugesu Chettiyar), who is absolute owner of 31 cents executed a registered Will dated 15.05.1949 in favour of his wife Pattammal. After her demise, his son Subramaniya Chettiyar inherited the aforementioned property and later he executed a registered sale deed dated 27.05.1996 bearing Doc.No.959/1996 in favour of one Vallinayagi. After her demise, her daughter Uma becomes the owner of the said property, who in turn, executed a settlement deed dated 08.06.2018 bearing Doc.No.1524/2018 in favour of her husband/the petitioner herein. While



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things stood as above, the Revenue Department initiated the revenue recovery proceedings against one Durai Ramachandran, who is the son of Natarajan Chettiyar (one of the four sons of Kullappa Chettiyar) and brought the entire extent of 1 Acre 24 cents comprised in S.No.178/4 for sale under the Revenue Recovery Act, 1864. While so, one Siva Chidambara Pillai, who is the father of the fifth respondent herein was declared as successful bidder and the sale certificate was issued. However, the said sale certificate was not registered in accordance with the provisions of Revenue Recovery Act, 1864. The fifth respondent and his family members had fraudulently entered into a registered partition deed dated 10.02.2004 bearing Doc.No.265/2004, without any parent document. Hence, the petitioner had made a representation dated 15.10.2021 to the District Registrar, Villupuram to conduct enquiry with respect to the fraudulent nature of the partition deed dated 10.02.2004 but there was no response, the petitioner had given an application to the first respondent on 22.02.2023 under Section 77-A of 'the



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Registration Act, 1908' [hereinafter referred to as 'the Act'] and cancel the

Doc.No.265/2004, as fraudulent one and also he has given an application to the second respondent on 23.02.2023, but the respondents have not considered the same yet. Hence, the petitioner is before this Court by way of writ petition.

4. Heard both sides and perused the materials available on record.

5. With regard to the amendment of Section 77-A of the Act, there are divergent decisions of two separate Benches of this Court as to whether the amendment of Section 77-A of the Act, has to be given retrospective effect or prospective effect and the said decisions have been referred to a Larger Bench to decide the matter. Further, enquiry proceedings under Section 77-A of the Act, are stayed by this Court. Pursuant to the same, the Inspector General of Registration also issued a Circular dated 29.09.2023 to the Registrars and the Sub-Registrars of the Registration Department that enquiry under Section 77-A of the Act, shall not be entertained. Hence, this



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Court is not inclined to give any positive directions to the respondents 1 to 4 to cancel Doc.No.265/2004. However, there is no impediment to the petitioner to approach the Civil Court to challenge the validity of the said document. Hence, this Court is not inclined to entertain this writ petition by invoking Article 226 of Constitution of India.

6. In view of the above this writ petition is disposed of, granting liberty to the petitioner to work out his remedy before the competent forum in the manner known to law or otherwise he shall wait till the outcome of the decision of the Larger Bench of this Court. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

- 1.The Inspector General of Registration,
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- 2.The Deputy Inspector General of Registration,
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- 3.The District Registrar,
Villupuram, Villupuram District.
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P.VELMURUGAN, J.

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