



W.P.No.2315 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2315 of 2024

Jaishankar

... Petitioner

versus

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

2.The District Registrar,
Integrated Building,
O/o.Commercial Taxes & Registration,
Nandanam, Chennai – 600 042.

3.The Sub Registrar,
NSK Avenue,
Manickam Road,
Kundrathur – 69.

4.Jeyachandran

5.Akbar

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
to issue a Writ of Mandamus, directing the respondents 1 to 3 to make

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enquiry under Section 83 of Indian Registration Act, 1908 within a time frame to be fixed by this Court.

For Petitioner : Mr.K.Anandharaja
for M/s.Murali Law Firm

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
for R1 to R3

ORDER

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for respondents 1 to 3. Since this writ petition is being disposed of without passing any adverse orders against respondents 4 and 5, affecting their interest, notice to those respondents is dispensed with.

2. This writ petition has been filed seeking for issuance of a writ of mandamus, directing respondents 1 to 3 to conduct enquiry under Section 83 of Indian Registration Act, 1908 [hereinafter referred to as 'the Act'], within a time frame to be fixed by this Court.

3. The case of the petitioner is that the subject property was originally purchased by the petitioner's father Ganapathy vide registered sale deed in



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Doc.No.16/2003. Ever since he is in peaceful possession and enjoyment of the said property without any encumbrance. While so, the fourth respondent herein has created fraudulent documents and sold the subject property in favour of the fifth respondent on 07.01.2021 as Doc.No.219/2021. Hence, the petitioner sent a notice on 24.12.2022 to respondents 1 to 3 herein to initiate enquiry under Section 83 of the Act and cancel the fraudulent documents as per Amendment Act 4/2022 under Sections 77(A), 77(B), 81-A and 81-B of the Act. While so, the second respondent vide proceedings dated 10.07.2023 directed the third respondent to conduct an enquiry and submit a report, but the said proceedings are still pending as per the directions of this Court in W.P.No.18814 of 2023, dated 27.06.2023. Hence, the present writ petition has been filed.

4. Heard both sides.

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. Hence, the proceedings under Section



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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.

6. However, the petitioner has got an efficacious alternative remedy, he can either approach the Civil Court or wait till the outcome of the decision of the Larger Bench of this Court. Hence, this Court is not inclined to entertain this Writ Petition by invoking Article 226 of the Constitution of India.

7. Accordingly, 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. There shall be no order as to costs.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
ms

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To

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