



W.P.No.3259 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3259 of 2024

and

W.M.P.Nos.3526 and 3529 of 2024

S.Ravichandran

... Petitioner

versus

1.The District Registrar (Administration),
Coimbatore South,
Coimbatore.

2.S.Vignesh @ Vigneshwaran

3.S.Purushothaman

4.R.Rajasekaran

5.N.Hema Kamatchi

6.TATA CAPITAL HOUSING FINANCE LIMITED,
represented by its Branch Manager,
No.737, Alveal Tower, 2nd Floor,
Puliakulam Main Road,
Coimbatore – 641 045.

.....Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling upon the records culminated in the impugned order in Na.Ka.No.93/Aa5/2023 dated 20.12.2023 quash the same as illegal, null and void, ultra vires, without jurisdiction and without authority and for Mandamus directing the 1st respondent to cancel the registered pathway right sale deed bearing document No. 8263/2023 dated 31.05.2023 executed by the 2nd respondent in favour of the 3rd respondent, registered sale deed bearing document No. 9186/2023 dated 15.06.2023 executed by the 3rd respondent in favour of the respondents 4 and 5 and registered Memorandum of Deposit of Title Deeds bearing Document No.9187/2023 dated 15.06.2023 executed by the respondents 4 and 5 in favour of the 6th respondent as per the circular issued by the Inspector general of Registration, Chennai in letter no. 41530/U1/2017 dated 25.03.2022.

For Petitioner : Mr.K.S.Shangaramurali
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader accepts notice for the first respondent. Since this writ petition is being disposed of

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without passing any adverse orders against respondents 2 to 6 affecting their interest, notice to those respondents is dispensed with.

2. This writ petition has been filed to quash the impugned order in Na.Ka.No.93/Aa5/2023, dated 20.12.2023 passed by the first respondent and consequently direct the first respondent to cancel the registered pathway right sale deed bearing document No. 8263/2023, dated 31.05.2023 executed by the 2nd respondent in favour of the 3rd respondent ; registered sale deed bearing document No.9186/2023, dated 15.06.2023 executed by the 3rd respondent in favour of the respondents 4 and 5 ; and registered Memorandum of Deposit of Title Deeds bearing Document No.9187/2023 dated 15.06.2023 executed by the respondents 4 and 5 in favour of the 6th respondent, as per the circular issued by the Inspector General of Registration, Chennai in letter No. 41530/U1/2017 dated 25.03.2022.

3. The case of the petitioner is that he has filed a suit in O.S.No.515 of 2013 on the file of the District Munsif Court, Coimbatore against the third respondent and the father of the second respondent herein and three



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others, for partition. Subsequently, the said suit was transferred to the file of the District Munsif Court, Sular and re-numbered as O.S.No.160 of 2018.

The trial Court passed preliminary decree allotting 1/6th share in favour of the petitioner in the suit properties. Hence, the petitioner has filed an application in I.A.No.1 of 2021 for passing final decree and the same is pending.

4. It is the further case of the petitioner that the suit properties in O.S.No.160 of 2018 are undivided and the parties thereto are enjoying it commonly. When that being so, respondents 2 and 3, who have no shares in the suit properties with separate and distinct four boundaries, by suppressing the preliminary decree and pendency of the final decree application, have fraudulently registered the sale deeds. Hence, the petitioner has filed an application under Section 77- A of the Registration Act, 1908 before the first respondent seeking for cancellation of those fraudulent documents. However, the first respondent has not taken into consideration the Circular in letter No.41530/U1/2017 dated 25.03.2022 issued by the Inspector General of Registration, Chennai, has passed the



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impugned order. Hence, the petitioner is constrained to file the present writ petition.

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

6. On a reading of the impugned order, it is seen that since there are conflicting 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 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 and that will be considered only after the decision of the Larger Bench of this Court. Therefore, the first respondent has rightly passed the impugned order stating that the grievance of the petitioner will be considered only after the decision of the Larger Bench of this Court. Hence, this Court does not find any



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illegality or infirmity in the impugned order passed by the first respondent.

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7. In view of the above, this Court is not inclined to grant any direction to the first respondent to conduct enquiry under Section 77-A of the Act. The petitioner has already obtained preliminary decree in O.S.No.160 of 2018 before District Munsif Court, Sulur and he has also filed an application in I.A.No.1 of 2021 in O.S.No.168 of 2018 for passing of final decree and the same is pending. It is open to the petitioner to approach the Civil Court or he can wait till the outcome of the decision of the Larger Bench of this Court.

8. With the above observations, the writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

The District Registrar (Administration),
Coimbatore South,
Coimbatore.

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P.VELMURUGAN, J.

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