



W.P.No. 6848 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 6848 of 2024

and

W.M.P.No.7640 of 2024

1.Boovaragamoorthy

2.Mahavishnu

... Petitioners

versus

1.The Inspector General of Registration,
No.120, Santhome High Road,
Chennai – 28.

2.The District Registrar,
(Administration),
Tindivanam.

3.K.Manickam

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to dispose of the appeal dated 24.07.2023, within a time frame to be fixed by this Court.

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For Petitioner : Mr.A.Tamilvanan
For Respondent : Mr.U.Baranidharan
Additional Government Pleader
for R1 and R2

ORDER

Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for respondents 1 and 2. Since this writ petition is being disposed of without passing any adverse orders against the third respondent, affecting his interest, notice to the third respondent is dispensed with.

2.This writ petition has been filed seeking for issuance of a writ of mandamus, directing the first respondent to dispose of the appeal dated 24.07.2023, within a time frame to be fixed by this Court.

3. The learned counsel for the petitioner submitted that the first petitioner's father purchased the subject property in the Court auction on 23.12.1987 in E.P.No.423 of 1984 and the same came to be confirmed by order dated 19.12.1990. As such, the third respondent herein and his father



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lost their title over the subject property. However, the third respondent, who has no title over the subject property, has filed a petition by invoking Section 77-A of the Registration Act, 1908 [hereinafter referred to as 'the Act'] before the second respondent/District Registrar (Administration) challenging the settlement deed in favour of the first petitioner and sale deed executed by the first petitioner in favour of the second petitioner. The second respondent, without proper enquiry, cancelled the documents. Aggrieved by the same, the petitioners preferred an appeal before the first respondent/Inspector General of Registration on 24.07.2023 by invoking Section 77-B of the Act. However, so far, the first respondent has not disposed of the said appeal, and hence, the petitioners are constrained to file the present 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



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or prospective effect and the said decisions have been referred to a Larger Bench to decide the matter, which is seized of the matter. Though there is an appellate remedy available under Section 77-B of the Act, which is continuation of the proceedings under Section 77-A of Act, this Court is not inclined to issue any direction to the first respondent to decide the appeal under Section 77-B of the Act. However, there is no bar for the petitioner to approach the Civil Court to get appropriate remedy. Therefore, the petitioner can either approach the Civil Court or await final orders to be passed by the Larger Bench on the issue.

6. With the above directions, the writ petition stands disposed of. W.M.P.No.7640 of 2024, is ordered on payment of separate Court fees, by each of the petitioners. There shall be no order as to costs.

18.03.2024

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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,
No.120, Santhome High Road,
Chennai – 28.
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P.VELMURUGAN, J.

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