



W.P.No.7269 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.7269 of 2024

and

W.M.P.Nos. 8117 and 8118 of 2024

1.R.Munian

2.R.Shanmugam

... Petitioners

versus

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

2. The District Registrar (Admin),
Assistant Inspector General Registrar Cadre,
Salem West, Salem District.

3. The Sub Registrar,
Sub Registrar Office,
Edapadi, Salem District.

4.M.Ashwin Vinoth

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
to issue a Writ of Mandamus, directing the third respondent not to

Pg.Nos.1/6



W.P.No.7269 of 2024

encumber the title of the property in any manner and not to register any document presented by the fourth respondent with regard to Survey Nos.758/2A, 758/2C, 758/1C and 759/1 Vellari Velli Village, Edapadi Taluk, Salem District.

For Petitioners : Mr.S.I.Sharukumar
for Mr.K.R.Hariharan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 to R3

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader accepts notice for respondents 1 to 3. Since this writ petition is being disposed of without passing any adverse orders against the fourth respondent affecting his interest, notice to the fourth respondent is dispensed with.

2. This writ petition has been filed seeking for issuance of a writ of mandamus directing the third respondent not to encumber the title of the property in any manner and not to register any document presented by the fourth respondent with regard to Survey Nos.758/2A, 758/2C, 758/1C and 759/1, Vellari Velli Village, Edapadi Taluk, Salem District.

Pg.Nos.2/6



W.P.No.7269 of 2024

3. The learned counsel for the petitioners submitted that, despite the enquiry proceedings under Section 77-A of the Registration Act, 1908 [hereinafter referred to as 'the Act'], are pending and as the issue is pending before the Larger Bench of this Court, the second respondent/District Registrar (Admin) passed the order on 01.08.2023, by considering the representation of the fourth respondent and cancelled the registered Deeds i.e. Documents Nos. 1329/2000, Book IV/307/2008, 2867/2008, 661/2009, 2128/2012, 5268/2018 and 2459/2022. Aggrieved by the same, the petitioner preferred an appeal before the first respondent/Inspector General of Registration on 21.08.2023, by invoking Section 77-B of the Act. During the pendency of the appeal, taking advantage of the order passed by the second respondent, the third respondent/Sub Registrar is trying to register the documents presented by the fourth respondent, and hence the petitioner is constrained to file the present writ petition.

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

5. It seen from the records that the second respondent, by invoking



W.P.No.7269 of 2024

Section 77-A of the Act, has passed the order on 01.08.2023 and as against the said order, the petitioner preferred an appeal by invoking Section 77-B of Act. Now, the petitioner has come up with the present writ petition to direct the third respondent not to encumber the title of the property in any manner and not to register any document presented by the fourth respondent with regard to Survey Nos.758/2A, 758/2C, 758/1C and 759/1, Vellari Velli Village, Edapadi Taluk, Salem District.

6. With regard to the amendment of Section 77-A of the Act, there are conflicting decisions of two separate single Benches of this Court regarding the applicability of Section 77-A of the Act and the said decisions have been referred to a Larger Bench, which is seized of the matter. Therefore, this Court is not inclined to entertain this writ petition. However, the petitioners have no bar or legal impediment to approach the Civil Court for appropriate remedy. Therefore, the petitioners are at liberty to approach the Civil Court or await final orders to be passed by the Larger Bench on the issue.



W.P.No.7269 of 2024

7. With the above direction, this writ petition is disposed of.

W.M.P.No.8117 of 2024, is ordered on payment of separate Court fees, by each of the petitioners. Consequently, W.M.P.No.8118 of 2024 is closed.

There shall be no order as to costs.

20.03.2024

Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

ms

To

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar Mandavelipakkam,
Raja Annamalaipuram,
Chennai – 600 028.
- 2.The District Registrar (Admin),
Assistant Inspector General Registrar Cadre,
Salem West, Salem District.
- 3.The Sub Registrar,
Sub Registrar Office,
Edapadi, Salem District.

Pg.Nos.5/6



WEB COPY



W.P.No.7269 of 2024

P.VELMURUGAN, J.
ms

W.P.No.7269 of 2024

20.03.2024

Pg.Nos.6/6