



WEB COPY



W.P.No.9702 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.9702 of 2023
and WMP.No.9763 of 2023

R.Prabhakaran

... Petitioner

vs.

The District Registrar (Admin),
South – Chennai,
O/o.Combined Office building of
Commercial Taxes and Department of
Registration (Basement),
Fenpet, Nandanam,
Chennai – 600 035.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the respondent's notice No.23789/E2/2022 dated 14.02.2023 and quash the same.

For Petitioner : Mr.K.Anbarasan

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

This writ petition is filed challenging the show cause notice issued by the respondent directing the petitioner to appear for enquiry regarding the complaint filed by one Prakasa Rao seeking cancellation of



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Document No.11088 of 2022 registered on the file of the Sub Registrar,
Udumalpet.

2. The Division Bench of this Court in ***M.Kathirvel vs. The Inspector General of Registration*** (W.P.No.10291 of 2022 etc., batch, dated 02.08.2024), while striking down Section 77A of the Registration Act observed as follows:

175. WP.[MDJ].Nos.14674, 7704, 8987/2023 ; 16445/2022 ; WP.Nos.10604/2020, 17719, 12480, 24805, 24610/2022 and 10858/2023.

The above writ petitions have been filed with a prayer for cancellation of documents or for cancelling registration of documents which are long before the amendment came. In view of the decision this Court had taken that Section 77-A as introduced by the amendment is unconstitutional, all the above writ petitions are dismissed as there is no scope for enquiry now under Section 77-A of the Act.

3. In view of the above order passed by the Division Bench of this Court striking down Section 77A of the Registration Act, which



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empowered the registering authority to cancel the document on the ground of fraud, as on date, there is no enabling provision empowering the registering authority namely the sole respondent to cancel the registered document. Therefore, the sole respondent cannot proceed with any enquiry regarding the request of the complainant seeking cancellation of the document.

4. Recording the same, the writ petition is disposed of. However, it is open to the party, in whose instance impugned summon was issued, to workout his remedy before the Civil Court in accordance with law. He is entitled to exclude the time taken in prosecuting the proceedings under Section 77A of Registration Act, while calculating limitation for filing Civil suit. No cost. Consequently, connected miscellaneous petition is closed.

23.09.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To
The District Registrar (Admin),
South – Chennai,
O/o.Combined Office building of

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Commercial Taxes and Department of
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S.SOUNTHAR, J.

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