



WEB COPY



W.P.No.14268 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.14268 of 2024
and WMP.Nos.15485 and 15486 of 2024

Rajesh Dhariwal

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome High Road, Santhome
Chennai – 600 028.

2.The Deputy General of Registration,
No.10, Kanchipuram High Road,
Chengalpattu Bazaar,
Chengalpattu – 603 002.

3.The District Registrar,
No.10, Kanchipuram High Road,
Chengalpattu Bazaar,
Chengalpattu – 603 002.

4.The Sub Registrar,
No.10, Kanchipuram High Road,
Chengalpattu Bazaar,
Chengalpattu – 603 002.

5.K.Manohar @ Manoharan

6.L.Venkatesan @ L.K.Venkat

... Respondents



W.P.No.14268 of 2024

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records and quash the orders passed by the 3rd respondent in order dated 06.12.2021 in Na.Ka.No.3965/AA3/2020 and confirmed by the 2nd respondent in Na.Ka.No.150/AA1/2022, dated 25.09.2023.

For Petitioner : Mr.R.Harinath

For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 to R4
Mr.S.Elankumar for R5
Unserved - R6

ORDER

This writ petition is filed challenging the order passed by the respondents 2 and 3 cancelling the registered document under Section 77A of Registration Act at the instance of 5th respondent.

2. Heard the arguments of the learned counsel for petitioner, learned Additional Government Pleader for respondents 1 to 3 and the learned counsel for contesting 5th respondent.



W.P.No.14268 of 2024

3. This Court in ***M.Kathirvel vs. The Inspector General of***

Registration reported in ***MANU/TN/4032/2024***, struck down Section 77A of Registration Act, the consequence of the same on the orders passed by the District Registrar in exercise of power under Section 77A of the Registration Act, 1908 was also spelled out by the Division Bench in the following words:

The above writ petitions are filed challenging the orders passed by the District Registrar cancelling the document on the ground that the registration of the document are in contravention of Section 22-A and Section 22-B. In view of the decision taken by this Court by declaring Section 77-A is unconstitutional, all these writ petitions are allowed and the impugned order passed by the respective District Registrars by invoking the power under Section 77 are set aside.

4. In view of the law laid down by the Division Bench of this Court in the above mentioned case, as a necessary consequence, the impugned order passed by the third respondent in Na.Ka.No.3965/AA3/2020 dated 06.12.2021 confirmed by 2nd respondent in Na.Ka.No.150/AA1/2022, dated 25.09.2023 is set aside. Accordingly, the writ petition stands allowed. Any



W.P.No.14268 of 2024

entry made in the encumbrance certificate pursuant to the impugned order shall be removed by the respondents.

5. It is open to the private respondents to workout their remedy in the manner known to law before the Civil Court. The private respondents are entitled to exclude the time taken in prosecuting the proceedings under Section 77A of Registration Act and writ petition before this Court, while calculating limitation for filing Civil suit. No cost. Consequently, connected miscellaneous petitions are closed.

23.09.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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W.P.No.14268 of 2024

To

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S.SOUNTHAR, J.



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