



W.P.No.13351 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.13351 of 2024
and WMP Nos.14498 & 14499 of 2024

V.Thirugnanam

... Petitioner

VS.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2. The District Registrar (Administration),
Registration Department,
Ranipet District, Ranipet.

3. The District Registrar (Audit),
Registration Department,
Ranipet District, Ranipet.

4. The Sub-Registrar,
Arcot Sub-Registration Office,
Arcot, Ranipet District.

5. R.Pandurangan.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned order passed by the 2nd respondent in proceedings No.1732/A2/2023 dated 29.09.2023 and order passed by the 3rd respondent in proceedings No.108/A2/2022 dated 03.04.2023 and to quash the same



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For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.B.Vijay (for R1 to R4)
Additional Government Pleader
Mr.K.Balaji (for R5)

ORDER

Aggrieved by the order passed by the 2nd respondent cancelling the sale deed bearing Document No.6744 of 2007, executed by one Selvaraj in favour of the petitioner, he has come before this Court.

2. According to the petitioner, the subject property was originally owned by the 5th respondent, he having purchased the same under the registered sale deed dated 30.10.1997. The 5th respondent executed a power deed in favour of one Selvaraj on 28.02.2007 in respect of the subject property and the power agent of the 5th respondent i.e., Selvaraj in turn executed a sale deed in favour of the petitioner on 13.09.2009. It is claimed that the petitioner has been in possession and enjoyment of the property in pursuance of the said sale deed.

3. The 5th respondent submitted a representation on 09.05.2022 before the 3rd respondent seeking cancellation of the document executed by his



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power agent Selvaraj, in favour of the petitioner on the ground that the said document is a fraudulent one. The 3rd respondent by impugned proceedings dated 03.04.2023 declared that the document was a forged document and no further registration will be entertained based on the said sale deed executed in favour of the petitioner. The 3rd respondent also granted liberty to the 5th respondent to file an application before the 2nd respondent under Section 77-A of the Registration Act, seeking cancellation of the registration.

4. Based on the said liberty, the 5th respondent filed an application before the 2nd respondent, seeking cancellation of the said sale deed under Section 77-A of the Registration Act. The 2nd respondent in exercise of powers under Section 77-A of the Act, conducted enquiry and cancelled the sale deed in favour of the petitioner vide order dated 29.09.2023. Aggrieved by the same, the petitioner is before this Court.

5. The learned counsel appearing for the petitioner contended that the Division Bench of this Court vide order dated 02.08.2024 passed in W.P.Nos.10291 of 2022 etc. batch cases, had struck down Section 77-A of the Registration Act, 1908. Therefore, the order passed by the 2nd respondent



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in exercise of powers under Section 77-A of the Registration Act, is liable to be set aside. The learned counsel also submitted that the order passed by the 3rd respondent holding the document as a forged document and no further registration in pursuance of the said document shall be entertained, is also without any jurisdiction.

6. The learned counsel for the 5th respondent submitted that the order passed by the 3rd respondent holding the sale deed in favour of the petitioner is a forged document, is not in pursuance of powers under Section 77-A of the Registration Act and therefore, the order passed by the 3rd respondent need not be disturbed.

7. A Division Bench of this Court in ***Kathirvel v. Inspector General of Registration and five others***, in **W.P.No.10291 of 2022 batch** cases [decided on 02.08.2024], while striking down Section 77-A of the Registration Act, observed as follows:

“176...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



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orders passed by the respondents 2 and 3, are quashed. Notwithstanding the allowing of the Writ Petition, it is open to the 5th respondent to work out his remedy before the Civil Court. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

29.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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S.SOUNTHAR, J.

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