



W.P.No.15873 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.15873 of 2023
and WMP.Nos.15346 of 2023

M/s.Olive Educational and Charitable Trust,
Represented by its Managing Trustee,
Dr.Mohammed Junaaid Ghatala,
S/o.Late.Mohammed Azam Ghatala,
No.38, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 600 034.

2.The District Registrar,
Office of the District Registrar,
JVC Complex, Near JCMR, Vedanginallur,
Thiruvallur – 631 203.

3.The Sub Registrar,
Red Hills Sub Registrar Office,
No.2, Sothupakkam Road,
Palavoyal, Red Hills, Chennai – 600 052.

4.Hemachandran
5.T.Mahesh Kumar

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating impugned show cause notice in Na.Ka.No.7071/Aa2/2022 dated 27.03.2023 and impugned undated summon in Na.Ka.No.7071/Aa2/2022 dated nil.05.2022 of the 2nd respondent and quash the same as without jurisdiction.

For Petitioner : Mr.L.Abdul Basith

For Respondents : Mr.P.Harish
Government Advocate
for R1 to R3
Mr.Ashok Menon
for R4 and R5

ORDER

This writ petition is filed challenging the show cause notice issued by the second respondent directing the petitioner to appear for enquiry regarding the complaint filed by the respondents 4 and 5 seeking cancellation of Document Nos.13062/2011, 7014/2016, 836/2017 and 15695/2021 registered on the file of the Sub Registrar, Redhills.

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



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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 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 second respondent to cancel the registered document.



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Therefore, the second respondent cannot proceed with any enquiry regarding the request of the respondents 4 and 5 seeking cancellation of the document.

4. Recording the same, the writ petition is disposed of. However, it is open to the respondents 4 and 5 to workout their remedy before the Civil Court in accordance with law. The respondents 4 and 5 are 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

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S.SOUNTHAR, J.

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