



W.P.No.18669 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.18669 of 2023
and WMP.Nos.17909 and 17911 of 2023

1.T.P.S.Sekar
2.T.P.S.Sadasivam

... Petitioners

vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai- 28.

2.The District Registrar (Administration),
Asst. Inspector General of Registration,
Salem West,
Room No.313, District Collectorate,
Salem – 636 001,
Salem District.

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

4.S.Rathinam

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 06.06.2023 made in Na.Ka.No.4553/E4/2022 passed by the 2nd respondent, quash the same and consequently direct the respondents 1 to 3 to delete the entries made by way of link scan in the office of the 3rd respondent by resorting the entire records in the name of the petitioners as it stood prior to the impugned order.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 to R3
M/s.Bhavani B.Mohan for R4

ORDER

The writ petition is filed challenging the order passed by the second respondent cancelling the sale deed executed in favour of the petitioner dated 15.03.2000 registered as Document No.798 of 2000 on the file of the 3rd respondent by exercising power under Section 77A of Registration Act, 1908.

2. 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



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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.

3. 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 second respondent in Na.Ka.No.4553/E4/2022 dated 06.06.2023 is set aside. Accordingly, the writ petition stands allowed. Any entry made in the encumbrance certificate pursuant to the impugned order shall be removed by the respondents.

4. It is open to the private respondent to workout his remedy in the manner known to law before the Civil Court. The private respondent is



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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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To
1.The Inspector General of Registration,
100, Santhome High Road,
Chennai- 28.

2.The District Registrar (Administration),

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Asst. Inspector General of Registration,
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3.The Sub Registrar,
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Salem District.

S.SOUNTHAR, J.

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