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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.3348 of 2023

and

C.M.P.No.27317 of 2023

Great Lakes Multi-State Cooperative

Housing Society Limited

Represented by its The Chief Promotor, Mr.S.Sakthivel

20/1, Park Street, Indira Nagar, Kutrallam 627802 Tenkasi Taluk

Tirunelveli District (As per Cause Title in main Writ Petition)

Having registered office at

No.76/190 South Car Street

Srivilliputhur in Virudhunagar District

Represented by its Chief Executive Officer

S.Sakthivel

... Appellant

Vs.

1.S.P.Vairavan

2.The Inspector General of Registration

No.100, Santhome High Road,

Chennai – 600 028.

3.The District Registrar,

Office of Sub-Registrar of Tenkasi



Tenkasi – 627 811.

4.Tmt.R.Pankajam @ Pankaj Ammal

5.District Registrar (Admin)

Chennai South

Combined Commercial Tax and Registration Building

Ground Floor, Veterinary Hospital Road,

Nandanam, Chennai – 600 035.

... Respondents

[R5 impleaded as per order dated 25.03.2024 made
in CMP.No.3989/2024 in WA.No.3348/2023]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ
appeal against the final order and judgment passed in W.P.No.7370 of 2023
dated 10.03.2023 on the file of this Court.

For Appellant	: Mrs.T.Kokilavane
For R1	: Mr.N.Ramakrishnan For M/s.ARK Law Associates
For R2, R3 & R5	: Mr.Yogesh Kannadasan Special Government Pleader
For R4	: No Appearance

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The present Intra Court Appeal has been instituted challenging the
common order passed in W.P.No.7370 of 2023 dated 10.03.2023.



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2. The 4th respondent in the writ petition is the appellant before us. The 4th respondent is the Multi-State Co-operative Housing Society registered under the Multi State Cooperative Societies Act, 2002. It is not in dispute that a Sale Deed was executed on 17.05.2013 vide Document No.853 of 2013. After a lapse of 9 years, the 1st respondent Mr.S.P.Vairavan submitted a complaint before the District Registrar on 01.12.2022 to cancel the Sale Deed executed on 17.05.2013. Since the complaint was kept pending, a writ petition was filed by the 1st respondent seeking direction to dispose of the complaint. The Writ Court directed the 3rd respondent to consider the complaint, conduct an enquiry and pass appropriate orders on merits within a period of 8 weeks. Having aggrieved, the 4th respondent preferred writ appeal.

3. It is not in dispute that Section 77-A of the Registration Act, 1908 was inserted with effect from 16.08.2022. There is no express provision to apply Section 77-A with retrospective effect. In the absence of any express Clause, amended Section is to be given effect to with prospective effect. Thus, the documents registered after 16.08.2022 alone can be subjected to



cancellation under Section 77-A of the Registration Act, 1908.

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4. In the present case, the document was registered on 17.05.2013 and the complaint was submitted after a lapse of about 9 years. During the relevant point of time, when the subject Sale Deed was registered, the District Registrar had no power to cancel the documents. That being the factum, the direction issued to dispose of the complaint by the Writ Court would do no service to the cause of justice. When the District Registrar has no jurisdiction, the complaint itself is not entertainable. That being the factum, we are inclined to consider the writ appeal.

5. Accordingly, the order dated 10.03.2023 passed in W.P.No.7370 of 2023 is set aside and consequently, the Writ Appeal stands allowed. No costs. Connected Miscellaneous Petition is closed.

[S.M.S., J.] [K.R.S., J.]
25.03.2024
(1/2)

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

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

2.The District Registrar,
Office of Sub-Registrar of Tenkasi
Tenkasi – 627 811.

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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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