



W.P.No.24100 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.24100 of 2023
and WMP.Nos.23581 and 23582 of 2023

Erode Cloth Merchants' Association,
Regd. No.SC.18/60,
No.83, East Kongalammankoil Street,
Erode – 638 001.
Represented by its President,
K.Kalaiselvan.

... Petitioner

vs.

1.The District Registrar (Administration)
(Assistant I.G.Level),
Erode District,
Erode.

2.The Sub Registrar,
The Sub Registrar Office,
Bhavani.

3.K.Sivakumar

... Respondents



W.P.No.24100 of 2023

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the proceedings in Na.Ka.No.6458/A2/2022 dated 21.02.2023, on the file of the 1st respondent and to quash the same as illegal, incompetent and ultravires.

For Petitioner	: Mr.M.Guruprasad
For Respondents	:Mr.B.Vijay Additional Government Pleader for R1 and R2 Mr.Manokaran for R3

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 third respondent seeking cancellation of Document Nos.2637 and 2638 of 2013 registered on the file of the Sub Registrar, Bhavani.

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 02.08.2024), while striking down Section 77A of the Registration Act observed as follows:

175. WP.[MD].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 first respondent to cancel the registered document. Therefore, the first respondent cannot proceed with any enquiry regarding the request of the third respondent seeking cancellation of the document.



W.P.No.24100 of 2023

4. Recording the same, the writ petition is disposed of.

However, it is open to the third respondent to workout his remedy before the Civil Court in accordance with law. The third respondent is 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 petitions are closed.

23.09.2024

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



W.P.No.24100 of 2023

To

1.The District Registrar (Administration)

WEB COPY (Assistant I.G.Level),

Erode District,

Erode.

2.The Sub Registrar,

The Sub Registrar Office,

Bhavani.



WEB COPY



W.P.No.24100 of 2023

S.SOUNTHAR, J.

ub

W.P.No.24100 of 2023

23.09.2024