



WEB COPY



W.P.No.26467 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.26467 of 2023
and WMP.Nos.25873 and 25874 of 2023

S.Iqbal

... Petitioner

vs.

1.The Inspector General of Registration,
Santhome,
Chennai – 28.

2.The District Registrar (Administration),
Chennai Central Registration District,
Chennai – 600 014.

3.K.Vanisri

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the entire records of the 1st respondent in No.36136/U1/2022 dated 05.05.2023 confirming the order of the 2nd respondent in Na.Ka.No.10786/B2/2022 dated 26.09.2022 and quash the same as wholly without jurisdiction, without any lawful authority and beyond the scope of newly inserted Section 22B(1) and Section 77A of the



W.P.No.26467 of 2023

Registration Act, 1908 under Tamil Nadu Act, 41 of 2022, which came into force with effect from 16.08.2022.

For Petitioner : Mr.V.P.Sengottuvel
Senior Counsel
For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 and R2
M/s.S.Janarthanan for R3

ORDER

This writ petition is filed challenging the order passed by the first respondent affirming the order of second respondent to cancel the various Document Nos.2751/2010, 298/2012, 1434/2016, 519/2017, 521/2017, 4908/2018 registered on the file of the Sub Registrar, Kodambakkam.

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 second respondent to cancel the registered document. Therefore, the second respondent cannot proceed with any enquiry regarding the request of the fourth respondent seeking cancellation of the document.



W.P.No.26467 of 2023

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

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

23.09.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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W.P.No.26467 of 2023

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W.P.No.26467 of 2023

S.SOUNTHAR, J.

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W.P.No.26467 of 2023

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