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W.P.No.29577 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.29577 of 2024

M.Shanthi Murthy @ Andal

... Petitioner

Vs.

1.The Deputy Inspector General of Registration
Chengalpattu Division,
Integrated Building For Offices,
Of The Commercial Taxes And Registration Department,
Fanepet, Nandanam, Chennai-600 035.

2.The District Registrar (Administration)
South Chennai, District Registrars Office,
Jennis Road, Saidapet,
Chennai-600 015.

3.Kalyani Paneerselvam

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for records relating to the order of the 1st respondent made in No 88/A1/2024 dated 01.02.2024, to quash the same and to consequently direct the 1st respondent to consider the appeal memorandum dated 08.02.2023 on merits and as per law and to law.

For Petitioner : M/s.L.Chandrakumar

For Respondents : M/s.C.Satish, Govt. Advocate
for R.1 & R.2.
: R.3 - Not ready in notice.



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ORDER

The writ petition has been filed to quash the orders passed by the 1st respondent in his proceedings No.88/A1/2024, dated 01.02.2024 and direct the 1st respondent to consider the appeal memorandum dated 08.02.2023.

2. The petitioner's case is that she has purchased an extent of 7 cents in S.No.119/2A2 and another extent of 7 cents in S.No.119/2D in Kovilambakkam Village, Pallavaram, Taluk, Chengalpattu District under a registered sale deed dated 25.02.1991. The property was purchased after verifying the title and on behalf of the owner Mr.P.D.Ganapathy, the sale deed was executed by his power agent one Mr.Gnanasundaram. The 3rd respondent claimed to have purchased an extent of 5 and 1/2 cents in the year 1986 under a registered document bearing number 1188/1986. On the basis of this, she had preferred a complaint on 21.03.2022 stating that the document registered in her favour was a valid one and that the document in favour of the petitioner was a fraudulent one. The complaint had been made nearly 41 years after the registration of the sale deed in favour of the petitioner. Notice has been issued to the petitioner to her address shown in the sale deed of the year 1991 and from where the petitioner had shifted her residence 3 decades ago. The petitioner was therefore not put on notice about the proceedings and by the impugned order, the document registered



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in favour of the petitioner has been declared as a forged and fraudulent document. It was only when the Inspector of Police had put her on notice about the complaint made by the 3rd respondent that the petitioner had come to know about the impugned order and therefore she had preferred an appeal to the 1st respondent. The 1st respondent had rejected the appeal on the ground of delay. Therefore, the petitioner is before this Court.

3. Heard the counsels on either side.

4. The basis on which the Writ Petition has been initiated is that the sale deed executed in favour of the petitioner bearing Document No.718/1991 dated 25.02.1991 has been held as a forged and fraudulent document by the 2nd respondent in exercise of powers under Section 77-A of the Registration Act.

5. Though the prayer is to quash the order dated 01.02.2024 of the 1st respondent and direct the 1st respondent to consider the appeal memorandum dated 08.02.2023. However, in the light of the judgement of the Division Bench, in case of ***M.Kathirvel Vs. Inspector General of Registration Department of Registration and Others*** reported in **(2024) 4 CTC 769** where the provisions of Section 77-A of the Registration Act



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has been held un-constitutional, the order passed by the 2nd respondent in his proceedings dated 18.07.2022 in Na.Ka.No.6151/B2/2022 is set aside.

6. With the above observations, the Writ Petition is allowed.

Consequently, the connected miscellaneous petitions are closed. No costs.

12.11.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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