



WEB COPY



W.P.No.31178 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31178 of 2023
and WMP.No.30806 of 2023

Eswaran

... Petitioner

Vs.

1.The Secretary,
Department of Registration and Commercial Tax,
Secretariat,
St.George Fort,
Chennai – 600 009.

2.The Inspector General of Registration,
Registration Department,
Santhome,
Chennai – 600 004.

3.The Deputy Inspector General of Registration,
Registration Department,
Kumara Giri by pass Road,
Salem – 636 014.

4.The District Registrar (Administration),
District Registrar Office,
Tiruvannamalai Road,
Krishna Kiri Registration District,
Krishna Kiri District – 635 001.



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5.The Sub Registrar,
Rayakottai,
Krishnagiri,
Tiruvannamalai Road,
Krishnagiri District – 635 001.

6.Vijaya
7.Anwar Basha
8.Narayanan
9.Murugesan
10.Mehaboob Bee

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order passed by the 3rd respondent in Na.Ka.No.7547/E3/2022 dated 10.07.2023 and quash the same

For Petitioner	: Mr.Chenthoori Pugazendhi
For Respondents	: Mr.P.Harish Government Advocate for R1 to R5 Mr.T.S.Baskaran for R6 No Appearance for R7 to R10

ORDER

This writ petition is filed challenging the order passed by the third respondent cancelling the settlement deed executed by 10th respondent in



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favour of 7th respondent and other subsequent sale deed executed in favour of petitioner and other connected documents by exercising power available under Section 77A of Registration Act, at the instance of 6th respondent.

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 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.



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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 third respondent in Na.Ka.No.7547/E3/2022 dated 10.07.2023 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 No.6 to workout her remedy in the manner known to law before the Civil Court. The private respondent No.6 is 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 petition is closed.

23.09.2024

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

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S.SOUNTHAR, J.



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