



W.P.No.34828 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.34828 of 2023

and

W.M.P.No.34835 of 2023

A. Sisil Anto (minor)
S/o. S. Arokiajayaseelan

... Petitioner

Versus

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Registration Department,
Chennai.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.
- 3.The District Registrar, (Administration)
Office of the District Registrar,
Kallakurichi.
- 4.The Sub Registrar,
Office of the Sub Registrar, Sankarapuram,
Kallakurichi Registration District,
Kallakurichi – 606 206.
- 5.S.Sahayaraj

... Respondents



W.P.No.34828 of 2023

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for all the connected and relevant records relating to the impugned order passed by the District Registrar (Administration) Office of the District Registrar, Kallakurichi, the 3rd respondent herein in his proceedings Na.Ka. No.5209/AA4/ 2022 dated 12.09.2023 and quash the same.

For Petitioner : Mr. S. Buvaneswari
For Respondents : Mr. R. Vigneshwaran, (for R1 to R4)
Special Government Pleader
: No Appearance (for R5)

ORDER

This writ petition has been filed seeking to issue a Writ of Certiorari to call for all the connected and relevant records relating to the impugned order passed by the District Registrar (Administration) Office of the District Registrar, Kallakurichi, the 3rd respondent herein, in his proceedings Na.Ka. No.5209/ AA4/ 2022 dated 12.09.2023 and quash the same.



W.P.No.34828 of 2023

WEB COPY

2. The case of the petitioner is that he is a minor and being the owner of the property situated in S.No.111/5G consisting of 10 ½ cents, along with the right to use the cement road path way, which consists of 2 cents in S.No. 111/6A at Viriyur Village, Sankarapuram Taluk, Kallakurichi District. The petitioner purchased this property from his father/guardian under registered Sale Deed dated 08.09.2020, vide Document No.3738 of 2020 on the file of the 4th respondent/Sub-Registrar Office, Sankarapuram and the Patta also stands in his name and he is in possession and enjoyment of his property. The Petitioner filed a civil suit O.S. No.125 of 2021 before the District Munsif Court, Sankarapuram against the 5th respondent and other Government officials for a declaration and permanent injunction and to direct the 5th respondent not to interfere with the possession and enjoyment of his property. Now, the suit is under the stage of trial. During the pendency of the said suit O.S. No.125 of 2021, the 5th respondent gave a complaint dated 07.11.2022 for the identical issue to the 3rd respondent to cancel the said sale deed dated 08.09.2020. While so, on 12.09.2023, the 3rd respondent had passed the impugned order and cancelled the said sale deed under Section 77-A of the Registration Act 1908. Though this Court had already stayed the enquiry to



W.P.No.34828 of 2023

be conducted under Section 77-A of the Act, and thereby, a Circular had also issued to all the District Registrars about the stay in conducting enquiry, but, the 3rd respondent had passed the impugned order, and hence, it is in violation of the order of this Court and Circular. The issue is only with respect to right to use the common path way consisting of 2 cents in S.No.111/6A. But the entire document consisting of 10 cents owned by my minor son, has been cancelled stating that partial cancellation is not possible. Challenging the same, the present writ petition has been filed before this Court.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the official respondents and perused the materials available on records.

4. Though there is a statutory remedy under Section 77-B of the Act, to redress his grievances, the petitioner without availing the alternative efficacious statutory remedy has approached this Court by challenging the impugned order dated 12.09.2023 passed under Section 77-A of the Registration Act.



W.P.No.34828 of 2023

WEB COPY

5. Since the issue under Section 77-A of the Registration Act, 1908, has been stayed by this Court and the matter was referred to the Larger Bench of this Court and in respect of same, the Inspector General of Registration issued a Circular No.03/2023, in Letter No.36330/U1/2023 dated 29.09.2023, and the same was communicated to all the District Registrars in Tamil Nadu, requesting them not to proceed further in connection with the enquiry to be conducted under Section 77-A of the Registration Act until the final decision is rendered by the Larger Bench. Therefore, the Registrar cannot conduct the enquiry at this stage.

6. Under such circumstances, this Court cannot pass any orders in this regard. However, the petitioner has no any legal impediment to approach the Civil Court to set aside the said document, or he can wait for the outcome of the decision pending before the Larger Bench, or he can approach the Appellate Authority for the said relief.



W.P.No.34828 of 2023

WEB COPY

7. With the above direction, the Writ Petition is disposed of. No costs. However, the petitioner is at liberty to work out his remedy as stated above. Consequently, the connected miscellaneous petition is also closed.

23.01.2024

Index : yes/no
Speaking order : yes/no
Neutral Case Citation : yes/no

klt

To:

- 1.The Secretary,
State of Tamil Nadu,
Registration Department,
Chennai.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.
- 3.The District Registrar, (Administration)
Office of the District Registrar,
Kallakurichi.
- 4.The Sub Registrar,
Office of the Sub Registrar, Sankarapuram,
Kallakurichi Registration District,
Kallakurichi – 606 206.

P. VELMURUGAN, J.



WEB COPY



W.P.No.34828 of 2023

klt

W.P.No.34828 of 2023
and
W.M.P.No.34835 of 2023

23.01.2024