



W.P.No.35600 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35600 of 2023

A.Kannan

S/o.Arumugam

... Petitioner

versus

1. The Sub Registrar
Pennadam
Tittagudi Taluk
Cuddalore District - 606 105.

2. P.Arumugam
S/o.Ponnusamy

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the Sub-Registrar, Pennadam pertaining to the impugned cancellation deed vide Doc.No.2973 of 2013 dated 19.12.2013 which was executed unilaterally by P.Arumugam, Son of Ponnusamy cancelling the gift deed vide Doc.No.2194 of 2011 dated 29.11.2011 in respect of the property bearing S.No.72/2 to an extent of 0.05 cents, 72/4 to an extent of 0.05 cents, 72/5 to an extent of 0.05 cents, 74A/11B to an extent of 0.29 cents, 74A/1 to an extent of 0.66 out of 0.95 cents 56A/7A to an extent of 0.053 cents and 56A/5 to an extent of 0.02

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cents along with the bore well with motor pump set having 7 ½ HP capacity of electric connection Tittagudi Taluk, Cuddalore District and to quash the impugned cancellation deed dated 19.12.2013 vide Doc.No.2937 of 2013.

For Petitioner : Mr.K.Jayabalan
For Respondents : Mr.R.Vigneshwaran
Government Advocate, for R1
Mr.K.Alangendran, for R2

ORDER

This writ petition has been filed seeking to quash the impugned cancellation deed dated 19.12.2013 vide Doc.No.2937 of 2013.

2. It is the case of the petitioner that originally, the subject properties belong to the second respondent, who is none other than the father of the petitioner. The second respondent executed a gift deed dated 29.11.2011 on the file of the Sub-Registrar Office, Pennadam vide Doc No.2194 of 2011 in favour of the petitioner. Later on, since the petitioner has not carried out the obligations mentioned in the gift deed, the second respondent unilaterally cancelled the gift deed on 19.12.2013 vide Doc.No.2937 of

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2013. Hence, the petitioner has filed the present writ petition seeking revocation of the gift deed dated 29.11.2011.

3. It is settled proposition of law that unilateral cancellation is not valid. However, the gift deed was cancelled in the year 2013 but the petitioner has filed the writ petition only in the year 2023.

4. Heard both sides and perused the materials available on record.

5. With regard to the amendment of Section 77-A of 'the Registration Act, 1908' [hereinafter referred to as 'the Act'], there are divergent decisions of two separate Benches of this Court as to whether the amendment of Section 77-A of the Act, has to be given retrospective effect or prospective effect and the said decisions have been referred to a Larger Bench to decide the matter. Further, enquiry proceedings under Section 77-A of the Act, are stayed by this Court. Pursuant to the same, the Inspector General of Registration also issued a Circular dated 29.09.2023 to the Registrars and the Sub-Registrars of the Registration Department that enquiry under Section 77-A of the Act, shall not be entertained and that will be considered

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after the decision of the Larger Bench of this Court.

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6. Since the petitioner has got an efficacious alternative remedy either he can approach the Civil Court or he can wait till the out of the decision of the Larger Bench of this Court. Hence, this Court is not inclined to entertain this writ petition by invoking Article 226 of Constitution of India. Therefore, this writ petition is disposed of, granting liberty to the petitioner to work out his remedy before the competent forum in the manner known to law. There shall be no order as to costs.

31.01.2024

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No

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To

The Sub Registrar
Pennadam
Tittagudi Taluk
Cuddalore District - 606 105.

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P.VELMURUGAN, J.

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