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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34654 of 2023

L.Rajan ... Petitioner

versus

1.The District Collector,
The Nilgiris District,
Office of the District Collector,
Udhagamandalam,
The Nilgiris District.

2.The Superintendent of Police,
The Nilgiris District,
Udhagamandalam.

3.The Tahsildar,
Coonoor Taluk,
Coonoor, The Nilgiris District.

4.The Inspector of Police,
Lovedalel Police Station,
Udhagamandalam,
The Nilgiris District.

5.The District Registrar,
Udhagamandalam,
The Nilgiris District.

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6.The Sub Registrar,
Coonoor,
The Nilgiris District.

7.L.Sathasivan
8.Savithri
9.Suresh
10.Sureka
11.A.Karthigeyan .....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the fifth respondent to cancel the sale deed vide Doc.No.197 of 2021, dated 01.02.2021 and release deed vide Doc.No.642 of 2023, dated 09.03.2023 on the file of the Sub-Registrar, Coonoor having allowed the respondents 8 to 11 to indulge in such fake registration.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.V.Yamunadevi
Special Government Pleader
for R1, R3, R5 and R6

Mr.S.Sugendran
Additional Public Prosecutor for R2 and R4

No appearance for R7 to R10

Mr.J.Franklin for R11

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O R D E R

This writ petition has been filed seeking for issuance of a writ of mandamus, directing the fifth respondent to cancel the Sale Deed vide Doc.No.197 of 2021, dated 01.02.2021 and Release Deed vide Doc.No.642 of 2023, dated 09.03.2023 on the file of the Sub-Registrar, Coonoor.

2. The learned counsel for the petitioner submitted that the respondents 7 to 11 knowing fully well that they have no title over the subject property, produced fake documents and registered the same on the file of the Sub Registrar, Coonoor and hence, the same are liable to be cancelled. He further submitted that the fifth respondent herein is being the authority concerned for cancellation of those fraudulent documents and hence, necessary directions may be given to the fifth respondent for cancellation of those documents.

3. The learned Additional Advocate General, assisted by the learned Special Government Pleader appearing for the respondents 1, 3, 5 and 6 submitted that the enquiry under Section 77-A of the Registration Act, 1908

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has been stayed by this Court and the applicability of the said Section also pending before the Larger Bench of this Court. Pursuant to the same, the Inspector General of Registration issued a Circular dated 29.09.2023 to the Registrar and the Sub-Registrar of the Registration Department stating that while registering the document, the question regarding Section 77-A of the Act, shall not be entertained. Therefore, the fifth respondent is not in a position to entertain the same and pass any order until the issue is settled by the Larger Bench of this Court.

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

5. With regard to the amendment of Section 77-A of 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 issue. Further, enquiry proceedings under Section 77-A of the Act, are stayed by this Court and hence, this Court is not inclined to give any positive directions to the fifth respondent to cancel

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the above said documents. However, there is no impediment to the petitioner to approach the Civil Court to challenge the validity of those documents.

6. In view of the above, this Writ Petition is disposed of. However, the petitioner is at liberty to work out his remedy before the competent Forum in the manner known to law or otherwise he has to wait till the out come of the decisions of the Larger Bench of this Court. However, there shall be no order as to costs.

19.01.2024

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