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W.P. No.480 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.480 of 2024 and
W.M.P. No.5041 of 2024

1. P.L.Murugaiah
2. Mrs.Nagalakshmi

... Petitioners

Vs.

1. The Deputy Inspector General of Registration
Cuddalore
2. The District Registrar (Administration)
Cuddalore District, Cuddalore - 607 001
3. The Sub Registrar
Vadalur
Cuddalore District
4. Mrs.M.Vasuki
5. B.Manikandan
6. Mrs.Rajakumari
7. Mrs.B.Pavunammal

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the proceedings of the 1st respondent dated 28.04.2023, made in Na.Ka.No.417/X/2023 and quash the same, consequently direct the 1st respondent herein to hear the appeal dated 25.01.2023 preferred by the petitioner herein in accordance with law within the time stipulated by this Court.



For Petitioner : Mr.S.Thirumavalavan

For R1 to R3 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus calling for the records of the proceedings of the 1st respondent dated 28.04.2023, made in Na.Ka.No.417/X/2023 and quash the same, consequently direct the 1st respondent herein to hear the appeal dated 25.01.2023 preferred by the petitioners herein in accordance with law within the time stipulated by this Court.

2. The learned counsel for the petitioners submitted that the petitioners purchased piece of lands from one S.Vasuki/4th respondent who is the wife of B.Manikandan/5th respondent under sale deeds dated 25.07.2013, registered as Document Nos.2211 and 2210 of 2013 on the file of the SRO, Vadalur and subsequently, the Revenue Records were mutated and the Tahsildar, Kurinchipadi Taluk has also issued a joint Patta. While so, the 6th respondent herein made an application before the 2nd respondent seeking to cancel the sale deed executed in favour of the petitioners stating that the petitioners'



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vendor had no right or title over the property conveyed under the said instruments. The 2nd respondent, after enquiry, without considering the right accrued to the said Vasuki/4th respondent and the case of the petitioners, made corrections in the Encumbrance Certificate stating that the documents are improper. Challenging the said order, the petitioners filed appeal before the 1st respondent and the 1st respondent, while dealing with the appeal, should have either set aside the order passed by the 2nd respondent or remitted back to the 2nd respondent for fresh consideration under Section 77-A of the Registration Act or otherwise, he should have passed orders on merits, whereas, the 1st respondent, without passing any order on merits or setting aside the order passed by the 2nd respondent, simply gave a direction to the 2nd respondent to get a fresh application from the petitioners and to consider the same under Section 77-A of the Registration Act since the order passed by the 2nd respondent is under Section 68(2) of the Registration Act that too after the commencement of Section 77-A of the Act w.e.f. 16.08.2022. Therefore, the present Writ Petition is filed.

3. Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader takes notice for the respondents 1 to 3. Since no adverse order is to be passed



against the respondents 4 to 7, notice to the respondents 4 to 7 is dispensed with.

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4. It is seen that the 6th respondent had filed the application before the 2nd respondent under Section 68(2) of the Act and on hearing the application, the 2nd respondent has directed the parties to approach the Civil Court to work out their remedy in respect of right and title apart from various observations stated therein. Challenging the said order, the petitioners filed appeal before the 1st respondent. Meanwhile, the amendment Act came into force. Therefore, the 1st respondent passed the present impugned order directing the 2nd respondent to get fresh applications from the petitioners and to conduct enquiry under Section 77-A of the Act. Even otherwise, now this Court has stayed the proceedings under Section 77-A of the Act and referred the matter to the Larger Bench of this Court. Further, the Inspector General of Registration has also issued a circular to the Registrars and Sub Registrars directing them not to conduct any enquiry under Section 77-A of the Act till the outcome of the decision of the Larger Bench of this Court regarding the validity and retrospective or prospective effect of the Section 77-A of the Act. Under the above circumstances, neither the 2nd respondent nor the 1st respondent can conduct enquiry either under Section 77-A of the Act or



appeal under Section 77-B of the Act. Since the Larger Bench of this Court has seized of the matter and this Court has also granted stay to conduct enquiry under Section 77-A of the Act, the petitioners are not entitled to the relief sought for in this Writ Petition. However, the petitioners shall either approach the Civil Court and work out their remedy in the manner known to law or they can wait till the outcome of the decisions of the Larger Bench of this Court.

5. Accordingly, the Writ Petition is dismissed. The connected Miscellaneous Petition is ordered subject to payment of separate Court fee by the other writ petitioner. No costs.

10.01.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

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P.VELMURUGAN. J.

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