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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.1855 of 2024 and
WMP Nos.1925 and 1927 of 2024

D.Rajendran ... Petitioner

Vs.

1. The District Registrar
   Nagapattinam
   Nagapattinam District

2. The Sub Registrar
   Thagattur
   Thagattur Village
   Vedaranyam Taluk
   Nagapattinam District

3. D.Devendran ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order passed by the 1st respondent in Na.Ka.No.3782/A5/2022 dated 12.06.2023 and consequential order passed by the 2nd respondent in Na.Ka.No.159/2023 dated 20.06.2023 and quash the same.

For Petitioner : Mr.V.Kasinatha Bharathi

For R1 and R2 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

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ORDER

This Writ Petition is filed seeking a Writ of Certiorari to call for the records relating to the order passed by the 1st respondent in Na.Ka.No.3782/A5/2022 dated 12.06.2023 and the consequential order passed by the 2nd respondent in Na.Ka.No.159/2023 dated 20.06.2023 and quash the same.

2. The contention of the petitioner is that the petitioner is residing in No.2/225, Ganapathydevankadu, Panchanathikulam Nadusethi, Vedaranyam Taluk, Nagapattinam District and he in possession and enjoyment of the said property from 1996 onwards. Since the mother and father of the petitioner no more, the relatives of the petitioner took efforts for partition with the 3rd respondent who is the younger brother of the petitioner. But he never turned up. Hence, the petitioner's elder brother and the legal heirs of the elder sister of the petitioner, executed a release deed on 05.05.2022 in favour of the petitioner. While so, all of a sudden, the 3rd respondent made a complaint before the 1st respondent on 24.12.2022 under Section 77A of the Tamil Nadu Registration Act (for brevity 'the Act') stating that the petitioner's mother had executed a Will on 27.03.2012. But the petitioner and his family members unaware of the alleged Will. After conducting enquiry, the 1st

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respondent cancelled the said release deed and also directed for criminal action under Section 83 of the Act on 12.06.2023. The learned counsel for the petitioner submitted that this Court as early on 27.03.2023, stayed the power under Section 77A of the Act, of the District Registrars and referred the matter to the Larger Bench and as per the directions of the Larger Bench, the Inspector General of Registration has also issued a circular dated 29.09.2023 to all the District Registrar not to issue any orders under Section 77A of the Act till the outcome of the Larger Bench. The circular very particularly contemplates that it will applicable to the order passed by the District Registrars prior to the date of 16.08.2022 also. Therefore, the petitioner is before this Court by way of this Writ Petition.

3. Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader takes notice for the respondents 1 and 2. Since no adverse order is to be passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.

4. It is seen that the petitioner has challenged the order passed by the 1st respondent/District Registrar under Section 77A of the Act. But against the order of the 1st respondent, the petitioner has got an alternative

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efficacious remedy under Section 77B of the Act before the Inspector General of Registration. Therefore, the petitioner is directed to work out his remedy in the manner known to law.

5. With the above directions, the Writ Petition is disposed of at the admission stage itself. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

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

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P.VELMURUGAN. J.

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