



W.P.No.4313 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.4313 of 2024

and

W.M.P.No.4625 of 2024

P.Thangaraj

... Petitioner

versus

1.Deputy Inspector General of Registration,
Salem Zone,
Combined Registration Office Complex,
Kamarajar Colony, Salem.

2.The District Registrar,
Salem District, Salem East,
Combined Registration Office Complex,
Kamarajar Colony,
Salem.

3.The Sub Registrar,
Ayothiyapattinam,
Combined Registration Office Complex,
Kamarajar Colony,
Salem.

4.P.Anguraj
5.P.Saravanan

.....Respondents

Pg.Nos.1/6



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the second respondent in Na.Ka.No.1291/E3/2023 dated 17.07.2023 and quash the same and consequently direct respondents 1 to 3 to cancel the fraudulent partition deed entered in between 4th and 5th respondents in Doc.No.2767/2009 on the file of the third respondent dated 20.08.2009 and the rectification deed in Doc.No.2830/2021 on the file of the third respondent dated 14.07.2021.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 to R3

ORDER

Mr.B.Vijay, learned Additional Government Pleader accepts notice for respondents 1 to 3. Since this writ petition is being disposed of without passing any adverse orders against respondents 4 and 5 affecting their interest, notice to those respondents is dispensed with.

2. This writ petition has been filed to quash the impugned order of the second respondent in Na.Ka.No.1291/E3/2023, dated 17.07.2023 and

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consequently, direct respondents 1 to 3 to cancel the fraudulent partition deed entered between 4th and 5th respondents in Doc.No.2767/2009 on the file of the third respondent dated 20.08.2009 and the rectification deed in Doc.No.2830/2021 on the file of the third respondent dated 14.07.2021.

3.It seen from the records that the petitioner has given a complaint before the second respondent for cancellation of certain documents in respect of the property in question owned by her and the second respondent rejected the complaint on 17.07.2023. As against the order passed by the second respondent, the petitioner has already preferred an appeal before the first respondent/Deputy Inspector General of Registration, by invoking Section 77-B of the Registration Act, 1908 [hereinafter referred to as 'the Act'] of the Act and the same is pending. Since there are conflicting decisions of two separate Benches of this Court regarding the applicability of Section 77-A of the Act, the said decisions have been referred to a Larger Bench, which is in seizing of the matter. Hence, the proceedings under Section 77-A of the Act are stayed by this Court in W.P.(MD).No.14546 of 2022, etc., batch dated 27.03.2023. Pursuant to the same, the Inspector General of Registration also issued a Circular dated



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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.

4. In the present case, though the petitioner has preferred the appeal before the first respondent as against the rejection order passed by the second respondent, neither the first respondent nor the second respondent can proceed with the matter under Section 77-A of the Act. However, civil remedy is not barred. Hence, the petitioner is at liberty to approach the Civil Court or await final orders to be passed by the Larger Bench on the issue.

5. With the above directions, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To
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2. The District Registrar,
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Combined Registration Office Complex,
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