



WEB COPY

W.P. No.728 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.728 of 2024 and
W.M.P. Nos.742 and 744 of 2024

1. Jayapal
2. Thangavel
3. Gurusami
4. Arumugam
5. Narayanan
6. V.N.Mathivaanan

... Petitioners

Vs.

1. The Inspector General of Registration
100, Santhome High Road, Mullima Nagar
Mandavelipakkam, Raja Annmalai Puram
Chennai - 600 028
2. The District Registrar
(Audit) (Administration) and (Additional Charge)
Tiruppur District
1/529, Nerupperichal Village,
Pooluvapatti Post, Tiruppur- 641 602
3. The Sub Registrar, Dharapuram
67, Park Road, Taluk Office Campus
Dharapuram - 638 656
4. The Sub Registrar, Avinashi
No.6/171 Post Office Road,
Avinashi Main Road,
Avanashi, Coimbatore - 641 654
5. S.P.Periyasami Goundar



6. S.A.Muthusami

7. M.Velusammy Goundar

8. Mrs.Sundarambal

9. Sivakarathi

... 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 of the 2nd respondent as contained in the impugned order bearing Na.Ka.No.163/AA5/2022 dated 09.10.2023 and quash the same.

For Petitioners : Mr.K.Newlin Frederick

For R1 to R4 : Mr.R.Vigneshwaran
Government Advocate

ORDER

This Writ Petition is filed seeking a Writ of Certiorari to call for the records of the 2nd respondent as contained in the impugned order bearing Na.Ka.No.163/AA5/2022 dated 09.10.2023 and quash the same.

2. The case of the petitioners is that initially the property was owned by one Mrs.Nagarathnammal who is the grandmother of the petitioners 1 to 5 herein. She executed a settlement deed whereby she reserved life interest in



favour of her son Mr.Soundararaj alias Shanmugavel Nadar and settled the properties in favour of the petitioners 1 to 5 who are the children of the said Soundarraaj. In order to mutate the revenue records and to conduct survey, the petitioners 1 to 5 appointed the 6th respondent as their power of attorney agent. Thereafter, when the survey was about to conduct, the same was objected by the respondents 5 to 9 herein claiming to be the owners of portion of the said property. After obtaining encumbrance certificate, the petitioners came to know that the said Soundarraaj Alias Shamugavel Nadar who did not have any title in the said property and who only had life interest in the same, sold several portion of the said property to various third parties. While so, the respondents 5 to 9 approached the 2nd respondent under Section 77-A of the Registration Act (for brevity 'the Act') for cancellation of the said power of attorney. Though the 2nd respondent did not have any authority to conduct enquiry, proceeded with the enquiry and cancelled the deed of general power of attorney executed in favour of the 6th respondent. Against which, the petitioners filed an appeal before the 1st respondent on 06.11.2023. However, the 1st respondent has not proceeded even to number the same and conduct enquiry citing the orders of this Court for not taking up the said appeal for hearing. Hence, the present Writ Petition is filed.



3. Mr.R.Vigneshwaran, learned Government Advocate takes notice for the respondents 1 to 4. Since no adverse order is to be passed against the respondents 5 to 9, notice to the respondents 5 to 9 is dispensed with.

4. Heard and perused the materials available on record.

5. Admittedly, there is a stay granted by this Court for conducting enquiry under Section 77-A of the Registration Act. Even then, the 2nd respondent has conducted enquiry under Section 77-A of the Act and passed orders cancelling the document. Challenging the same, it is stated that the petitioner has filed an appeal invoking Section 77-B of the Act before the 1st respondent which is in the numbering stage.

6. Since this Court has already stayed the enquiry under Section 77-A of the Act and subsequently, the Larger Bench of this Court is seized of the matter, this Court cannot express any view or decide the issue in this Writ Petition.

7. However, the petitioner has got an alternative efficacious remedy. He can either pursue the said appeal filed before the 1st respondent under Section



77-B of the Act after the issue is settled by the Larger Bench or he can file a suit before the Civil Court.

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8. With the above observations, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition in W.P. No.744 of 2024 is closed. The W.M.P. No.742 of 2024 is ordered subject to payment of separate Court Fee by the other writ petitioners.

12.01.2024

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Index : Yes / No

Neutral Citation Case : Yes/No



To

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P.VELMURUGAN. J.

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