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W.P.No.36389 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2024

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.No.36389 of 2023 and
W.M.P.Nos.36391 of 2023 & 3045 of 2024**

K.Senthilnathan

Versus

... Petitioner

1. The Inspector General of Registration
100, Santhome High Road, Chennai – 28
2. The District Registrar (Administration)
Chennai-South
Office of the District Registrars
Integrated Building for Offices of the
Commercial Taxes and
Registration Department
Fanepet, Nandanam, Chennai 600 0035.
3. The Sub-Registrar,
Kundrathur
NGS Enclave, Manickam Salai,
Kundrathur, Chennai – 600 069.

4. V.Seema

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari to call for the records of the first respondent pertaining to the order dated 25.10.2023 in Na.Ka.No.5603/U2/U1/2023 and quash the same as arbitrary, beyond jurisdiction.



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For Petitioner : Mr.M.Kempuraj

For Respondents : Mr.R.Neethi Perumal,
Government Advocate for RR1 to 3

Mr.M.Elumalai for R4

ORDER

This writ petition has been filed for the issuance of Writ of Certiorari to call for the records pertaining to the order dated 25.10.2023 in Na.Ka.No.5603/U2/U1/2023 and quash the same as arbitrary, beyond jurisdiction.

2 Learned counsel for the writ petitioner submitted that he purchased the property situated at Plot No.237, Door No.14, III Cross Street, Lakshmi Nagar Extension, Porur Village, Maduravoyal Taluk, Tiruvallur District, comprised in S.No.89/16 of an extent of 2400 sq.ft. along with superstructure vide registered sale deed Doc.No.3002 of 2003. The fourth respondent claiming title over the said property filed complaint before the second respondent and the second respondent instead of directing her to approach the Civil Court, taking advantage of Section 77A of the Registration Act, passed the order cancelling the sale deed of the petitioner. Aggrieved against the same, the writ petitioner approached the first respondent filing statutory appeal, who by order dated



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25.10.2023 in Na.Ka.No.5603/U1/U2/2023 dismissed the appeal and confirmed

the order of the second respondent. Even though the issue relating to Section 77A of the Registration Act is pending with the Larger Bench of this Court and this Court also stayed the enquiry under Section 77A of the Registration Act, based on which the first respondent also issued circular, the first respondent against his own circular, passed the impugned order, wherein the order of the second respondent cancelling the sale deed of the writ petitioner has been confirmed. The first respondent should not act against his own circular, especially when the matter is seized by the Larger Bench of this Court. Therefore the impugned order is liable to be quashed.

3 Learned counsel appearing for the fourth respondent would submit that the petitioner himself filed writ petition before this Court in W.P.No.10179 of 2023 and got an order dated 31.03.2023 to dispose of the appeal filed by the writ petitioner before the first respondent and based on the same the first respondent passed the order. Now the writ petitioner cannot question the validity of the order passed by the first respondent.

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



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5 Admittedly there was an enquiry under Section 77(A) of the Registration Act by the second respondent and challenging the same the writ petitioner filed an appeal before first respondent. Pending the appeal, he also approached this Court invoking Article 226 of the Constitution of India in W.P.No.10179 of 2023 and got an order dated 31.10.2023 to dispose of the appeal pending before the first respondent. Meanwhile, there is divergent views of this Court regarding applicability of Section 77(A) of the Registration Act and one of the learned Single Judges of this Court granted stay for conducting enquiry under Section 77(A) and also referred the matter to the Larger Bench. Subsequently Large Bench also constituted and it seized the issue regarding applicability of Section 77(A) of the Registration Act.

6 But, since the petitioner also got specific order of this Court to dispose of his appeal pending before the first respondent, the first respondent disposed of the appeal filed by the writ petitioner. Under such circumstances, this Court is not inclined to express any views on the merits of the case. It is seen that the writ petitioner also approached the Civil Court and therefore he can workout his remedy before the Civil Court in the manner known to law.

7 With the above observations, the writ petition shall stand disposed



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of. Consequently connected miscellaneous petitions are closed. No costs.

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Index: Yes/No

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P.VELMURUGAN, J.,

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