THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.487 of 2021
and
C.M.P.No.1942 of 2021

1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Fort St. George, Chennai – 9.

2.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai – 600 028. ...Appellants

Vs.

Confederation of Real Estate Developer's Association of India,
CREDAI TAMIL NADU,
Rep. by its President N.Nandakumar,
11, Sir Thiyagaraya Road,
T.Nagar, Chennai – 600 017. ...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to allow the writ appeal and set aside the order dated 13.08.2014 made in W.P.No.33958 of 2013.

For Appellants	:	Mr.L.S.M.Hasan Fizal, Additional Government Pleader
For Respondent	:	No appearance

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JUDGMENT

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

The respondent is not appearing despite service.

2. Challenge in this writ appeal by the State is to the order of the learned Single Judge made in W.P.No.33958 of 2013 striking down the circular issued by the Inspector General of Registration bearing No.189/C1/2013 dated 02.02.2013 requiring the presentant of the document which is executed by a power agent to produce a certificate to the effect that the principal was alive within 30 days prior to the execution of the instrument. The judgment of the learned Single Judge quashing the circular is dated 13.08.2014.

3. Subsequently a Division Bench of this Court in W.A.(Md.)No.998 and 999 of 2015 went into the very same question and concluded that the judgment impugned in this Writ appeal made in W.P.No.33958 of 2013 does not have the force of law, in view of the directives issue by the Hon'ble Supreme Court on 03.08.2015 in ***N.Murugesan Vs. Inspector General of Registration, Tamil Nadu.*** In doing so, the Division Bench observed as follows:-

> *68. We have already found that the judgment in CREDAI, setting aside the Circular, dated 02.02.2013, does not have the force of law in view of the directives issued by the Supreme Court on 03.08.2015 in* ***N.Murugesan Vs. Inspector General of Registration, Tamil Nadu****.* Today, the direction issued by the Supreme Court in ***N.Murugesan*** *has the force of law, in view of Article 141 of the Constitution. It is binding on all courts and it is actually the law of the land.*
>
> *69. It is true that the learned Single Judge who allowed the writ petitions of the respondent did not have the benefit of the judgment of Supreme Court, as the judgment of the Supreme Court came subsequently. But, nevertheless, the direction of the Supreme Court cannot today be ignored as it arose directly out of a challenge to the very same Circular. Hence the order of the learned Single Judge is liable to be set aside.*

4. In view of the above conclusion, we are convinced that the order of the learned Single Judge made in W.P.No.33958 of 2013 impugned in this Writ Appeal has to be necessarily set aside. The Writ Appeal is therefore **allowed** and W.P.No.33958 of 2013 will stand dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) **(R.S.V., J.)**

dsa 02.08.2024

Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To:-

1.The Secretary to Government,
State of Tamil Nadu,
Commercial Taxes & Registration Department,
Secretariat, Fort St. George, Chennai – 9.

2.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai – 600 028.

R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

dsa

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