



WP(MD). No.1034 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 20/09/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.1034 of 2023
and WMP(MD) No.972/2023**

Elavarasi Karnan.A

... Petitioner

Vs

1. The District Registrar (Administration),
District Registrar Office,
Thanjavur..

2. Joseph Thambiraj,
S/o. Anthonisamy, 271, West Street
Micheal Patti, Thanjavur - 613 104..

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records pertaining to the impugned proceedings vide Na.Ka. No.2637/A2/2021 dated 02.01.2023 on the file of the 1st respondent and quash the same as illegal, abuse of process of law.

For Petitioner : M/s. Rajaraman.R,
For Respondent : Mr.M.Siddharthan for R1
Additional Government Pleader
Mr.S.Krishnan for R2



WP(MD). No.1034 of 2023

ORDER

WEB COPY

The writ petition has been filed challenging the notice of the 1st respondent calling the petitioner for enquiry dated 02.01.2023.

2. It is the case of the petitioner that the petitioner and one Irudaya Pushpam had registered a partnership firm in the name and style of JK promoters and selling the land under the registered partnership firm. While so, suits have been filed by Irudaya Pushpam and the partnership firm and revision has also been filed by the petitioner herein. While so, Irudaya Pushpam died on 02.02.2021 and in the revision filed before this Court, an order has been obtained without disclosing the death of Irudaya Pushpam. However, on the complaint made by 2nd respondent, the impugned notice came to be passed, against which, the petitioner is before this Court.

3. I have considered the rival submissions and perused the materials available on record.

4. It is pertinent to note that after sale of the property in the year



WP(MD). No.1034 of 2023

2013, a complaint has been given by the 2nd respondent on 06.09.2021.

The complaint itself indicated that the factual aspect has to be established in the manner known to law. Therefore, the impugned notice invoking Section 77A of the Registration Act is per se illegal.

5. It is seen that the very Section 77(A) inserted under Registration Act is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court as per *Satya Pal Anand v. State of M.P.* [2016 10 SCC 767] and *G. Rajasulochana v Inspector General* made in W.P 29706 of 2024 dated 16.04.2024. Accordingly, the impugned order is quashed and the writ petition is allowed. No costs. Consequently connected Miscellaneous Petition is closed.

20.09.2024

RR

TO

1. The District Registrar (Administration),
District Registrar Office, Thanjavur..



WEB COPY



WP(MD). No.1034 of 2023

N.SATHISH KUMAR,J

RR

**ORDER
IN
WP(MD) No.1034 of 2023**

Date : 20/09/2024