



W.P.(MD)Nos.14474, 15519, 15869, 18561 and 19992 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)Nos.14474, 15519, 15869, 18561 and 19992 of 2022
and W.M.P.(MD)Nos.11442, 11443, 13487, 14552, 14553, 11192 of 2022,
18183 and 18177 of 2024

In W.P(MD) No.14474 & 15519 of 2022

S.Balasubramanian

... Petitioner in W.P(MD) No.14474, 15519 of 2022

Vs

1. The Inspector General of Registration,
Nungambakkam, Chennai.

2. The District Registrar,
Joint 4 Sub-Registrar Office, Madurai.

3. The Sub Registrar,
Joint 4 Sub-Registrar Office, Madurai
South District, Madurai.

... Respondents in W.P(MD) No.14474 of 2022

1. The Inspector General of Registration,
Nungambakkam, Chennai.

2. The District Registrar,
Joint 4 Sub-Registrar Office, Madurai.

3. The Sub Registrar,
Joint 4 Sub-Registrar Office, Madurai



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South District, Madurai.

4. The Executive Officer,
Arulmigu Subramanya Swamy Temple,
Thiruparankundram,
Madurai.

5. J. Sundarajan

... Respondents in W.P(MD) No.15519 of 2022

In W.P(MD) No.15869 of 2022

1. K.Muniyandi

2. T.Jayarani

3. T.Shantheesh

.... Petitioners in W.P(MD) No.15869 of 2022

/vs/

1. The Inspector General of Registration,
Nungambakkam, Chennai.

2. The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Combined Building, Rajagambeeram,
Thirumoogur Road, Y.Othakadai, Madurai-6.

3. The District Registrar (Administration),
Madurai South District,
171, Palace Road, Madurai.

4. The Sub-Registrar,
Joint 4 Sub-Registrar Office, Madurai
South District, Madurai.

5. S.Balasubramanian



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6. J.M.Rajasuganya

7. J.Sundarrajan *

**(Impleaded as per order of this Court in
WMP(MD) No.18177 of 2024, dated 06.11.2024)*

... Respondents in W.P(MD) No.15869 of 2022

In W.P(MD) No.18561 of 2022

J.Sundarrajan

.... Petitioner in W.P(MD) No.18561 of 2022

Vs

1. The District Collector,
Madurai District, Madurai.

2. The Revenue Divisional Officer,
Melur Division at Narasingampatty,
Vellaripatty Road, Madurai - 625 106.

3. The Tahsildar,
Madurai South Taluk, Madurai.

4. The District Registrar (Administration),
Madurai South, 171 Palace Road, Madurai.

5. The Sub Registrar No.4,
Sub-Registrars Officer, Madurai South,
Palaganatham, Madurai.

6. K.Muniyandi

7. T.Jeyarani

8. T.Santheesh

9. S.Balasubramanian

... Respondents in W.P(MD) No.18561 of 2022



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In W.P(MD) No.19992 of 2022

N.Thiyagarajan

.... Petitioner in W.P(MD) No.19992 of 2022

Vs

1. The District Registrar (Administration),
Assistant Inspector General of Registration Position,
Madurai South, Madurai.

2. The Joint-IV Sub Registrar,
Madurai South, Madurai.

3. J.Sundarrajan

4. The Executive Officer,
Arulmigu Subramania Swamy Temple,
Thiruparamkundram, Madurai..

5. S.Balasubramanian

... Respondents in W.P(MD) No.19992 of 2022

PRAYER IN WP(MD) No.14474 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to calling for the records and quash the impugned order passed by the 3rd Respondent in RFL/Madurai South Joint 4/6/2022, dated 17.06.2022 and consequently direct the 3rd respondent to register the settlement deed, dated 14.06.2022 presented by the petitioner.

For Petitioner	: Mr. M.Karthikeya Venkitachalapathy
For Respondents	: Mr.S.P.Maharajan Special Government Pleader



W.P.(MD)Nos.14474, 15519, 15869, 18561 and 19992 of 2022

PRAYER IN WP(MD) No.15519 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records in pursuant to the impugned order passed by 2nd Respondent in Na.Ka.No.2314/A2/2021 dated 23.06.2022 and quash the same.

For Petitioner : Mr. M.Karthikeya Venkitachalapathy

For Respondents : Mr.S.P.Maharajan (R1 to R3)
Special Government Pleader

Mr.V.Chandrasekar (R4)

Ms.J.Padmavathi Devi (R5)

PRAYER IN WP(MD) No.15869 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for records pertaining to the impugned order passed by the Respondent No. 2 vide Na.Ka.No. 4106 / Aa4 / 2021 dated 04-07-2022 issued by the Respondent No.2 and quash the same as illegal.

For Petitioners : Mr. M.Sridharan

For Respondents : Mr.S.P.Maharajan (R1 to R4)
Special Government Pleader

Mr.M.Sankar (R4)

Mr.N.S.Karthikeyan(R6)

PRAYER IN WP(MD) No.18561 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 23.06.2022 in NE.MU. No.2443/2021/A4 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to cancel the patta given to 9th respondent



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based on the order passed by the 3rd respondent in Na.Ka. No.2314/AA2/2021 dated 23.06.2022.

For Petitioner : Ms.J.Padmavathi Devi
For Respondents : Mr.S.P.Maharajan (R1 to R5)
Special Government Pleader

PRAYER IN WP(MD) No.19992 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in Na.Ka. No.2314/Aa2/2021 dated 23.06.2022 and quash the same.

For Petitioner : Mr. S.Parthasarathy
For Respondents : Mr.S.P.Maharajan (R1,R2)
Special Government Pleader

Ms.J.Padmavathi Devi (R3)

Mr.V.Chandrasekar (R4)

Mr.T.Krishnaveni (R5)

COMMON ORDER

The petitioner in W.P(MD) No.15519 of 2022 had purchased the property comprised in S.No.576/1 to an extent of 85 ½ cents of land situated at Avaniyapuram, Madurai under patta No.2001 by way of registered sale deed in Doc.No.9956/2018, dated 09.07.2018. After purchase, the petitioner had applied for sub division of property and as per order, dated 21.01.2021 it was ordered for



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sub-division and issued separate patta in favour of the petitioner. The subject property was given S.No.576/1B to an extent of 0.34.60 Hectares, ie., 85 ½ cents under patta No.22035. However, in respect of title over the property, there is a dispute between the petitioner's vendors and other claimants.

2. Simultaneously, the title over the subject property also claimed by Arulmigu Thiruparankundram Subramaniya Swamy Temple by its Trustee and also by the Executive Officer. Therefore, one of the Trustee approached the District Registrar (Administration), Madurai South to cancel the sale deed registered in favour of the petitioner. The District Registrar vide order, dated 28.01.2022 rejected the complaint and directed the parties to approach the civil Court, since it is pertaining to a title dispute. Aggrieved by the same, the said Trustee preferred an appeal before the Inspector General of Registration and the same was allowed under Section 68(2) of Registration Act, 1908.

3. One of the vendor of the subject property also filed a petition in W.P(MD) No.19992 of 2022 and supported the case of the petitioner in W.P(MD) No.15519 of 2022, challenging the order passed by the District Registrar, thereby, seeking for cancellation of sale deed executed in favour of the petitioner in



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W.P(MD) No.15519 of 2022.

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4.The petitioner in W.P(MD) No.15519 of 2022 also filed a petition in W.P(MD) No.14474 of 2022 intended to settle the subject property in favour of his wife and executed a settlement deed and presented for registration. However, when it was presented for registration, it was refused to register by way of issuing refusal check slip on the ground that the sale deed executed in favour of the petitioner itself now cancelled and as such, he has no title to execute settlement deed in favour of his wife.

5.In W.P(MD) No.18561 of 2022 filed by another person, who also claimed title over the property by challenging the order passed by the Revenue Divisional Officer, thereby, dismissed the request made by the petitioner seeking cancellation of patta issued in favour of the vendor of the subject property and directed the petitioner to approach the civil Court for appropriate relief, since it regards to dispute over the title.

6.W.P(MD) No.15869 of 2022 has been filed challenging the order passed by the Deputy Inspector General of Registration under Section 68(2) of



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Registration Act, 1908. Originally, the 5th respondent lodged a complaint to cancel the sale deed executed in favour of the petitioner in W.P(MD) No.15519 of 2022.

7.In all these writ petitions, the issue is common and the subject property is also one and the same. It is seen that the dispute between the vendors and other persons, who also claimed title over the property, including the Temple. Now, the provision under Section 77(A), 77(B) of Registration Act, 1908 and the Circular issued by the Inspector General of Registration, dated 08.11.2017 have been struck down by the Division Bench of this Court as unconstitutional. Therefore, the District Registrar or the appellate Authority having bar to cancel the registered documents. The aggrieved party has to approach only the civil Court for proper relief.

8.It is relevant to rely upon the Judgment of Division Bench of this Court passed in the batch of writ petitions in W.P.No.10291 of 2022 etc., batch, dated 02.08.2024. The relevant portions are extracted hereunder for better appreciation:

“173. WP.(MD).Nos.8653, 5413, 6457, 6443, 6556, 4983, 5396, 15120, 5492, 5449, 5613, 8999, 5782, 5419, 6333, 6215, 13994, 8421, 9163, 11273, 11121, 8768, 7444, 12885, 5497, 8832/2023 and 14546,



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21199/2022 ; 11890, 15105, 15553, 15477, 15020, 8558, 9975, 14353, 13147, 2734, 10718, 13000, 8095, 10352, 8175, 15129, 15172, 9936, 7262, 7836, 10818, 12694, 14055, 10729, 9554, 7385, 9919, 13995, 9550, 13330, 11891, 6850, 5399, 8814, 8550, 8765, 6686, 10993 8600, 7920, 9563, 10705, 29682, 10378, 9523, 14402, 9024, 7852, 7052, 9556, 7088, 9120, 14069, 8836, 7958, 15557, 14567, 7267, 6709/2023 & WP.No.831/2022.

The above writ petitions are filed for issuing directions to respondents to consider the representations of the respective petitioners. The representations of the petitioners in all these cases are to cancel the registration of the documents which are before amendment. Since we have held that Section 77-A is unconstitutional and assuming that it is constitutionally valid, it can only operate prospectively, all the following writ petitions are liable to be dismissed.

174. WP.Nos.10291/2022, 15128, 31128, 15905, 9125, 8445, 2792, 20907, 19264 & 11009/2023, WP.(MD).Nos.9534, 9770, 5418, 9681, 18274, 14865, 13770, 9691, 5108, 13385, 9638, 4840, 10315, 13824, 6288, 15197, 15822, 18883, 18419, 13642 of 2023 & 4073, 19148/2022:-

The above writ petitions are filed to quash the notice or proceedings issued by the District Registrar / Inspector General of Registration, in exercise of his power under Section 77-A of the Registration Act to cancel the registered document. All the documents which are sought to be cancelled or registration of which are sought to be cancelled, are executed before amendment. Since this Court has now held that Section 77-A is prospective, all the writ petitions are allowed and the impugned notices or proceedings issued by District Registrar /



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Inspector General of Registration, in exercise of his power for conducting enquiry under Section 77-A are quashed.

175. WP.(MD).Nos.14674, 7704, 8987/2023 ; 16445,/2022 ; WP.Nos.10604/2020, 17719, 12480, 24805, 24610/2022 and 10858/2023.

The above writ petitions have been filed with a prayer for cancellation of documents or for cancelling registration of documents which are long before the amendment came. In view of the decision this Court had taken that Section 77-A as introduced by the amendment is unconstitutional, all the above writ petitions are dismissed as there is no scope for enquiry now under Section 77-A of the Act.

176. WP.(MD).Nos.8357, 12208, 13666, 9213, 14121, 13172, 13895, 13746, 3419 of 2023, 8679/2023, WP.Nos.15543, 13188, 22561, 31075, 31079/2023 ; WA.No.2963, 2211, 2386/2023, 575/2024 ; WP.Nos. 13567, 8305, 10525, 22570, 9386, 15825/2023:-

The above writ petitions are filed challenging the orders passed by the District Registrar cancelling the document on the ground that the registration of the document are in contravention of Section 22-A and Section 22-B. In view of the decision taken by this Court by declaring Section 77-A is unconstitutional, all these writ petitions are allowed and the 398 impugned order passed by the respective District Registrars by invoking the power under Section 77 are set aside.

WP.No.26952/2023:-

177.Since this Court holds that Section 22-B is not unconstitutional, the writ petition is partly allowed.

WP.No.4161/2024:-

178.Section 68[2] of Registration Act was interpreted to confer



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power on the District Registrar to cancel the document for irregularities in registration. As this Court has already held that Section 77-A of the Act is unconstitutional as it is contrary to the object of the Act, any circular or order or direction enabling the District Registrar or Registering Officer to cancel registration or invalidating any transaction is unconstitutional and hence, the impugned circular dated 08.11.2017 is declared as unconstitutional. The writ petition stands allowed.

*179. In view of our conclusions reached above on every point we have taken for determination in these cases, this Court finds that there is no scope for entertaining any application under Section 77-A of the Act. Similarly, the power under Section 22-A and Section 22-B of the Act can be exercised only when the jurisdictional issue as indicated in our judgment can be decided on the admitted facts or on the materials which are not in dispute. Till such time the Government frames guidelines in the manner provided by the Full Bench and Division Bench of Andhra Pradesh High Court, the directions issued by the Division Bench of this Court in *Sudha Ravikumar and Another Vs. The Special Commissioner and Commissioner, HR&CE, Chennai and Others* [2017 SCC Online Mad 19191 : 2017 [4] MLJ 445] is binding on the Registering Authority and the Registering Authority shall meticulously follow the directions. No costs. Consequently, connected miscellaneous petitions are closed.*



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9.In view of the above,

- *W.P(MD) Nos.15519 and 19992 of 2022 are allowed and the impugned order, dated 23.06.2022 is quashed;*
- *W.P(MD) No.18561 of 2022 is dismissed;*
- *In view of the aforesaid dictum laid down by the Division Bench, the impugned order, dated 04.07.2022 cannot be sustained and liable to be quashed. Accordingly, WP(MD) No.15869 of 2022 is allowed;*
- *In view of the above, the impugned refusal check slip issued by the 3rd respondent in W.P(MD) No.14474 of 2022 cannot be sustained and liable to be quashed. Accordingly, WP(MD) No. 14474 of 2022 is allowed. The petitioner is at liberty to represent the settlement deed, dated 14.06.2022 executed in favour of his wife in respect of subject property within a period of two weeks from the date of receipt of copy of this order before the third respondent and on receipt of the same, the 3rd respondent shall register the document and release the document forthwith;*
- *However, aggrieved parties over the sale deed executed in favour of the petitioner in W.P(MD) No.15519 of 2022 are at liberty to*



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approach the Civil Court for appropriate relief in the manner known to law. The period of pendency of all these writ petitions shall be excluded to calculate the limitation for filing a suit.

- *No costs. Consequently connected Miscellaneous Petitions are closed.*

06.11.2024

NCC : Yes/No
Index : Yes/No
PNM

To

1. The District Collector,
Madurai District, Madurai.

2. The Inspector General of Registration,
Nungambakkam, Chennai.

3. The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Combined Building, Rajagambeeram,
Thirumoogur Road, Y.Othakadai, Madurai-6.

4. The District Registrar,
Joint 4 Sub-Registrar Office, Madurai.

5. The District Registrar (Administration),
Madurai South District,
171, Palace Road, Madurai.



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6. The District Registrar (Administration),
Assistant Inspector General of Registration Position,
Madurai South, Madurai.

7. The Revenue Divisional Officer,
Melur Division at Narasingampatty,
Vellaripatty Road, Madurai - 625 106.

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Sub-Registrars Officer, Madurai South,
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11. The Executive Officer,
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G.K.ILANTHIRAIYAN, J.

PNM

COMMON ORDER IN

W.P.(MD)Nos.14474, 15519, 15869, 18561 and 19992 of 2022
and W.M.P.(MD)Nos.11442, 11443, 13487, 14552, 14553, 11192 of 2022, 18183
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