



W.P.(MD)No.21739 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.21739 of 2024

and

W.P.(MD)No.18363 of 2024

K.Dhanasekar

... Petitioner

/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 625 107.

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.Dinesh Chandra Agarwal

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to the impugned proceedings by the Respondent No. 3 vide Na.Ka.Na.11241/Aa2/2022 dated 03.05.2023 issued by the Respondent No.3 and quash the same as illegal.

For Petitioner : Mr.N.Kalimuthu

For Respondents : Mr.D.Sadiq Raja (R1 to R4)

Additional Government Pleader

Mr.R.Ganesh (R5)

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 03.05.2023 thereby cancelled the documents registered vide Document Nos. 1866/1992, 1865/1992, 1864/1992, 1867/1992, 1869/1992, 1871/1992, 1872/1992, 1873/1992, 1874/1992, 3325/1992, 1863/1992, 1870/1992, 1875/1992 registered in Joint Sub Registrar Office, Madurai South.

2. Heard the learned counsel on either side and perused the materials placed before this Court.



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3. The petitioner had purchased plot number 33 in Eliyarpatti Vilalge, Madurai District, by registered sale deed dated 01.12.2010 vide Document No.14290 of 2010 from one Lavanya. The petitioner's vendor had purchased the subject plot from Harnaraya Agarwal by the registered sale deed dated 16.04.1992 registered vide Document No.1866 of 1992.

4. While this being so, the fifth respondent filed a petition before the third respondent to cancel the sale deed of the year 1992 registered vide Document No.1866 of 1992 dated 16.04.1992, along with other sale deeds of the year 1992. The third respondent conducted an enquiry and allowed the petition and cancelled the sale deeds of the year 1992 under Section 77A of the Registration Act, 1908.

5. Section 77A of the Registration Act, 1908 has been declared as unconstitutional by the Hon'ble Division Bench of this Court in a batch of writ petitions in WP.No.10291 of 2022 etc batch dated 02.08.2024 and the relevant portion of the order is extracted here under

*“173. WP.(MD).Nos.8653, 5413, 6457, 6443, 6556,
4983, 5396, 15120, 5492, 5449, 5613, 8999, 5782, 5419,*



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6333, 6215, 13994, 8421, 9163, 11273, 11121, 8768, 7444, 12885, 5497, 8832/2023 and 14546, 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



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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 / 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:-



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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 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 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.



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*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.”*

6. In view of the above, the order impugned in this writ petition dated 03.05.2023 cannot be sustained and is liable to be quashed. Accordingly, the impugned order dated 03.05.2023 is hereby quashed and this writ petition is allowed.



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7. The fifth respondent has already challenged the sale deeds of the petitioner's father and the petitioner's sale deeds in OS No. 99 of 2022 before the jurisdictional District Munsif Court. In view of the order passed by third respondent, the fifth respondent has not pressed the suit and as such, now the learned counsel appearing for the fifth respondent seeks permission to revive the said suit.

8. In view of the above and considering the facts and circumstances of the case, the fifth respondent is at liberty to approach the civil Court to revive his suit. On the application, the trial court is directed to revive the said suit and proceed with the trial in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2024

Index : Yes / No
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

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Order made in
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