



W.P.(MD)No.25058 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.25058 of 2022

S.Arabu Nisha

... Petitioner

Vs.

1.The District Registrar,
O/o.The District Registrar,
Ramanathapuram District.

2.The Sub Registrar,
Sayalkudi Taluk Office,
Ramanathapuram District.

3.N.Maharifa

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to cancel the fraudulent settlement deed registered with the 2nd respondent Sub Registrar Office, Sayalkudi, as document No.1218/2021 as per the provision of the Section 77-A of the Registration Act, 1908 by considering the petitioner's representation dated 29.08.2022 and for other such reliefs within the period stipulated by this Court.



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For Petitioner : Mr.S.Atham Ali
For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1 & R2
Mr.J.Alaguram Jothi for R3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to cancel the fraudulent settlement deed registered with the 2nd respondent Sub Registrar Office, Sayalkudi, as document No.1218/2021 as per the provision of Section 77-A of the Registration Act, 1908, by considering the petitioner's representation dated 29.08.2022 and for other such reliefs within the period stipulated by this Court.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

3. It is the case of the writ petitioner that the petitioner's late husband Thajudeen has purchased the subject property and after his death, she is in possession and enjoyment of the subject property. Due to financial crisis, the petitioner decided to sell the subject property and therefore, the petitioner



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executed a power of attorney in favour of her sister, in order to sell the property on behalf of her. Thereafter, the petitioner decided not to sell the property and planned to cancel the power of attorney. At that time, the petitioner came to know that her sister fraudulently executed a settlement deed instead of power of attorney in her favour. Hence, the petitioner made a representation on 29.08.2022 seeking to cancel the said settlement deed as per Section 77-the Registration Act, 1908. Since the same was not considered, the petitioner has filed this Writ Petition.

4. 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 vs. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767 and *G. Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024*. Accordingly, the writ petition is dismissed. It is for the petitioner to file a necessary suit before the competent civil Court, providing the same is within the period of limitation. No costs.

vsm

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NCC : Yes/No

Index : Yes/No

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N.SATHISH KUMAR, J.

vsm

To

- 1.The District Registrar,
O/o.The District Registrar,
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- 2.The Sub Registrar,
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