



W.P.(MD)No.25412 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.25412 of 2024

and

W.M.P.(MD)Nos.21560 to 21562 of 2024

1.Mohanan Nair

2.Suresh Kumar

: Petitioners

Vs.

1.The Inspector General of Registration,
Registration Department,
Chennai – 28.

2.The District Registrar,
Marthandam Registration District,
Marthandam,
Kanyakumari District.

3.Jothish Kumar

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating to the impugned order passed by the second respondent No. 3204/J/2022 dated 20.03.2023 and quash the same.



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For Petitioner : Mr.F.Deepak
For Respondents 1 & 2 : Mr.P.Subbaraj
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order dated 20.03.2023, under which registered documents standing in favour of the petitioner have been cancelled pursuant to a complaint given by the third respondent.

2.The impugned order has been passed by the second respondent exercising his powers under Section 77-A of the Registration Act, 1908. The Division Bench of this Court in its order dated 21.08.2024 passed in W.P.No.10291 of 2022 has held Section 77-A of the Registration Act, 1908, as unconstitutional.

3.In view of the same, the question of cancellation of documents executed in favour of the petitioner by exercising powers under a Section which is held to be unconstitutional does not arise.

4.For the foregoing reasons, this Court is of the considered view that by total non-application of mind to the fact that Section 77-



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A of the Registration Act has been held to be unconstitutional by the Division Bench of this Court, the second respondent has passed the impugned order and necessarily, the same will have to be quashed.

5. Accordingly, the impugned order is quashed and the writ petition is allowed. In view of the settled law as laid down by the Division Bench of this Court and in view of the fact that Section 77-A of the Registration Act has held to be unconstitutional, there is no necessity for this Court to issue notice to the third respondent. However, liberty is granted to the third respondent to approach the Civil Court, in case he desires to re-agitate his rights against the petitioner for the cancellation of the documents. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.10.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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To

1.The Inspector General of Registration,
Registration Department,
Chennai – 28.

2.The District Registrar,
Marthandam Registration District,
Marthandam,
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ABDUL QUDDHOSE, J.

MR

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