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W.P.(MD) No.25538 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.25538 of 2024

and

W.M.P.(MD) Nos.21658 & 21659 of 2024

1.C.Kumarasamy

2.K.Venkadesh

... Petitioners

-vs-

1.The Revenue Divisional Officer-cum-
Sub Collector
Cheranmahadevi
Tirunelveli

2.The Tahsildar
Radhapuram Taluk
Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned order passed by the second respondent in Na.Ka.No.(AA2)862/2024 dated 19.09.2024 and the consequential impugned notice issued by the first respondent in A3/44/2024 dated 21.09.2024 and quash the same .



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For Petitioner : Mr.H.Arumugam
For Respondents : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

This writ petition has been filed challenging the order, dated 19.09.2024, passed by the second respondent, recommending the first respondent to cancel the licence granted to the petitioners' marriage hall and the consequential notice, dated 21.09.2024, issued by the first respondent, directing the petitioners to appear for enquiry on 30.09.2024.

2. The land in Survey No.369/A1, to an extent of 0.34.0 Hectares, in Survey No.369/A2, to an extent of 0.13.5 Hectares, in Survey No.369/A4, to an extent of 0.00.5 Hectares and in Survey No.369/A5, to an extent of 0.09.5 Hectares, total extent of 1.89 Acres, in Samoogarengapuram, Radhapuram Taluk, Tirunelveli District, was originally belonged to one Alwar Reddiar. He died leaving behind his son Venkatachala Reddiar. Later, the said Venkatachala Reddiar died leaving behind his wife V.N.Nagalakshmi and



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son V.Iyyappan. As such, the said V.N.Nagalakshmi and V.Iyyappan inherited the said property and enjoyed the same jointly. Subsequently, they sold the said property in favour of the petitioners, under a sale deed, dated 23.03.1999, registered as document No.301 of 1999. Thereafter, the petitioners partitioned the said property under a partition deed dated 28.05.2014 and registered as document No.1362 of 2014. Thereafter, the first petitioner settled his share to his son / second petitioner, under a settlement deed dated 19.07.2017 and registered as document No.1555 of 2017. Subsequently, the second petitioner mortgaged the said property under a mortgage deed dated 16.11.2017 and registered as document No.2831 of 2017, in favour of Tamil Nadu Mercantile Bank, Kallikulam Branch, Radhapuram Taluk, and availed loan.

3. In such circumstances, after a lapse of 24 years, one Narayana Reddiyar and one Muthuraja lodged a complaint before the District Registrar (Admn), Tirunelveli, seeking to cancel the sale deeds registered as document Nos.301 of 1999, 1362 of 2014, 1555 of 2017 and 2831 of 2017, by invoking Section 77-A of the Registration Act, 1908, alleging that the vendors of the petitioners had no title over the property. On receipt of the said complaint, an



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enquiry was conducted and the District Registrar passed an order, dated 25.04.2023, cancelling the sale deeds as fraudulent documents. Challenging the said order, the petitioners filed a writ petition in W.P.(MD) No.12204 of 2024 before this Court, wherein this Court had granted an order of interim stay and the said interim order is in force.

4. In such circumstances, the Honourable Division Bench of this Court in M.Kathirvel vs. The Inspector General of Registration, reported in **2024 (4) CTC 769**, has held the very Section 77A of the Registration Act, 1908 as unconstitutional and ultra vires and accordingly, the Division Bench of this Court struck down the Section 77A of the Registration Act, 1908.

5. After purchase of the subject property, the petitioners have constructed a marriage hall in the name and style of “KPC Mahal” and the second respondent has also issued licence to the petitioner under the Tamil Nadu Public Building (Licensing) Act, 1965, on 12.04.2024, which is valid upto 11.04.2027.



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6. While that being the position, the second respondent issued the impugned notice stating that the title deeds were already cancelled by the District Registrar (Admn) under Section 77-A of the Registration Act, 1908 and as such, the licence issued in favour of the petitioner is not valid and therefore, the petitioners have no right to retain the licence. Though the petitioner submitted before the second respondent that the Section 77-A of the Registration Act, 1908 has already been struck down by the Honourable Division Bench of this Court, the second respondent has passed the impugned order dated 19.09.2024 recommending the first respondent to cancel the licence issued to the petitioners. Thereafter, the first respondent issued the impugned notice dated 21.09.2024, directing the petitioners to appear for enquiry on 30.09.2024.

7. Heard the learned counsel on either side and perused the materials available on record.

8. A perusal of the materials shows that the complainants before the District Registrar, namely, Narayana Reddiyar and Muthuraja have alleged



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that the vendors of the petitioners have no title over the subject property and by suppressing the same, they sold the subject property to the petitioners. Furthermore, the said Narayana Reddiyar and Muthuraja have lodged the complaint after nearly 24 years. In such circumstances, this Court is of the view that if the said Narayana Reddiyar and Muthuraja have any grievance in respect of title over the subject property, they have to necessarily approach the competent Civil Court for appropriate relief instead of approaching the District Registrar.

9. At this juncture, it would be worthwhile to note that the Honourable Division Bench of this Court in ***M.Kathirvel***'s case has categorically held that the District Registrar has no jurisdiction to decide title over the property and therefore, he cannot entertain any complaint and nullify the registered deeds. The relevant portion of the said decision is extracted hereunder:

“173. WP.(MD).Nos.8653, 5413, 6457, 6443, 6556, 4983, 5396, 15120, 5492, 5449, 5613, 8999, 5782, 5419, 6333, 6215, 13994, 8421, 6709, 9163, 6686, 11273, 14567, 11121, 8768, 7444, 12885, 5497, 8832/2023 and 14546, 21199/2022 ; 11890, 15105, 15553, 15477, 15020, 8558, 9975, 14353, 10852, 13147, 2734, 10718,



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13000, 8095, 10352, 8175, 15129, 15172, 9936, 8653, 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, 7444, 8832, 15557, 14567, 11121, 11273, 9024, 9163, 7267, 6709 & 12885 / 2023 & WP.No.831/2022 & WP.Nos.7267/2023-

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



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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. 15557, 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.”*

10. In view of the above, the impugned order dated 19.09.2024, passed by the second respondent and the consequential impugned notice dated 21.09.2024, issued by the first respondent, cannot be sustained and they are liable to be quashed.



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11. Accordingly, this writ petition is allowed and the impugned order dated 19.09.2024, passed by the second respondent and the consequential impugned notice dated 21.09.2024, issued by the first respondent, are hereby quashed. The complainants before the District Registrar (Admn) is at liberty to approach the competent Civil Court for appropriate relief in the manner known to law, if they are so advised. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2024

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

1.The Revenue Divisional Officer-cum-
Sub Collector,
Cheranmahadevi,
Tirunelveli.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.



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2024

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