



W.P.(MD).No.12772 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.12772 of 2017

and

W.M.P.(MD)Nos.9875 and 9876 of 2017

R.Kethsibai

...Petitioner

Vs

1.The Inspector General of Registration,
O/o.the Inspector General of Registration,
Chennai – 600 028.

2.The District Registrar / Enquiry Officer,
Registration Department,
Kanyakumari District,

3.The Sub-Registrar,
Kottaram,
Kanyakumari District.

4.The Sub-Registrar,
Rajakkamangalam,
Kanyakumari District.

5.The Sub-Registrar,
Idalakudi,
Kanyakumari District.

6.Anetter Allwyn

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to to call for the records pertaining to the impugned order in No. 607/A1/2017 dated 02.05.2017 on the file of the Respondent No.2 and quash the same as illegal and consequently for a direction, directing the Respondent No.2 to cancel the fraudulent registration of document vide Document No.3339/2012 in respect of Item No.15, Rajakkamangalam Sub Registrar office, Kanyakumari District, Document No. 3887/2013 in respect of Item No.13, Idalakudi Sub-Registrar Office, Kanyakumari District, in respect of petitioner's property to an extent of 21 cents 250 square links situated in Kulasekaram Village, Agastheeswaram Taluk, Kottaram Division, Kanyakumari District in accordance with the procedure contemplated in Circular 67 dated 03.11.2011 within the time period stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For R-1 to R-5 : Mr.D.Sadiq Raja
Additional Government Pleader

For R-6 : Mr.N.Dilip Kumar

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner, Mr.D.Sadiq Raja, learned Additional Government Pleader for the respondents 1 to 5 and Mr.N.Dilip Kumar, learned counsel for the respondent no.6.



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2. This Writ Petition has been filed challenging the order dated 02.05.2017 on the file of the second respondent and to consequently direct the second respondent to cancel the fraudulent registration of document vide Document No.3339/2012 in respect of Item No.15, Rajakkamangalam Sub Registrar office, Kanyakumari District, Document No. 3887/2013 in respect of Item No.13, Idalakudi Sub-Registrar Office, Kanyakumari District, in respect of petitioner's property to an extent of 21 cents 250 square links situated in Kulasekaram Village, Agastheeswaram Taluk, Kottaram Division, Kanyakumari District in accordance with the procedure contemplated in Circular 67 dated 03.11.2011.

3. The issue involved in this Writ Petition is no longer *res integra*. The Inspector General of Registration, vide his proceedings in letter No. 41530/u1/2017 dated 20.10.2017, has withdrawn the said Circular No.67 and the District Registrars were also informed to return the petitions received under Circular No.67, subsequent to the decision of Hon'ble Supreme Court in ***Satya Pal Anand V. State of M.P.***, reported in (2016)



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10 SCC 767. In the said decision, the Hon'ble Supreme Court has held that the power to cancel the registration is a substantive matter and in the absence of any express provision on that behalf, it is not open to assume that the Registering Officer would be competent to cancel the registration of the documents in question.

4. In view of the above, this Writ Petition is dismissed with liberty to the petitioner to approach the competent civil Court. If any suit is filed by the petitioner, the same shall be entertained by the civil Court by excluding the period for which this writ petition was pending before this Court for the purpose of calculating the limitation period. No costs.

14.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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- 2.The District Registrar / Enquiry Officer,
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- 3.The Sub-Registrar,
Kottaram,
Kanyakumari District.
- 4.The Sub-Registrar,
Rajakkamangalam,
Kanyakumari District.
- 5.The Sub-Registrar,
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Kanyakumari District.



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K.KUMARESH BABU, J.

Nsr

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