



W.P.(MD)No.28703 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.28703 of 2024

Jeremy Paul Antonio Demel

...Petitioner

-Vs-

1.The District Collector,
Collectorate,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

3.The District Registrar,
Thoothukudi District,
Thoothukudi District.

4.The Sub Registrar,
Vilathikulam,
Thoothukudi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, direct the 3rd and 4th Respondents to cancel the documents in i)Doc. No.2288 of 2019, ii)Doc. No.2249 of 2019, iii)Doc.No.2250 of 2019, iv)Doc.No.2251 of 2019, v)Doc. No.2339 of 2019, vi)Doc. No.2340 of 2019, vii)Doc. No.2341 of 2019, viii)Doc. No.2430 of 2019, ix)Doc. No.2431 of 2019 and x)Doc.No.2534 of 2019 registered on the file of the 4th Respondent, by implementing the proceedings of the 2nd Respondent in Na.Ka.A14621/2024 dated 09.08.2024.



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For Petitioner : Mr.A.Rajaram
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed for a direction, directing the respondents Nos.3 and 4 to implement the order passed by the second respondent, dated 09.08.2024.

2.The petitioner has owned several properties. In the mean while, one Sahayanesan obtained legal heir certificate by the Village Administrative Officer of one Late Joseph Antoni Dimiel, who died in 1966 in Colombo, Srilanka. On the strength of the legal heir certificate, he sold out so many properties including shares of the petitioner. Therefore, the petitioner has submitted a representation before the second respondent and on receipt of the same, the second respondent found that the legal heir certificate obtained by the said Sahayanesan is invalid and a person issued the legal heir certificate is also facing departmental proceedings. Therefore, the second respondent directed the third respondent to cancel the document which was registered on the strength of the legal heir certificate issued by the Village Administrative Officer in favour of one Sahayanathan by its communication dated 09.08.2024.



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3.The Registering authority has no power or authority to cancel any documents. The Registering authority can only act under Sections 82 and 83 of the Registration Act.

4.In view of the dictum laid down by the Hon'ble Division Bench of this Court in the case of ***M.Kathirvel and others V. Inspector General of Registration*** reported in **2024 (4) CTC 769**, is held as follows:-

“172. The following Writ Appeals are against the Order passed by the respective learned Single Judges of this Court either allowing or dismissing the Writ Petitions. The Writ Petitions have been filed challenging the Show Cause Notices under Section 77-A of the Act for cancellation of Sale Deeds or challenging the Show Cause Notices issued by District Registrars in connection with the enquiry under Section 77-A of the Act. Since this Court has already held that Section 77-A is unconstitutional and that Registrar has no power to cancel the document de hors Section 77-A of the Act, the Writ Appeals and the consequential Writ Petitions are disposed of as indicated in the following table:



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Writ Appeal No.	Allowed/ Dismissed	Writ Petition No.	Allowed/ Dismissed
3483/2023	Allowed	29352/2023	Allowed
3458,3469 & 3465/2023	Allowed	29354,29357 & 29335/2023	Allowed
2918/2023	Allowed	7908/2023	Dismissed
2924,2917 & 2915/2023	Allowed	7917,7906 & 7912/2023	Dismissed
850/2023	Allowed	3379/2023	Allowed
2963/2023	Allowed	6448/2023	Allowed
3298/2023	Dismissed	18814/2023	Dismissed
3227/2023	Allowed	19293/2023	Allowed
59/2024	Allowed	19256/2023	Allowed
2386/2023	Allowed	9313/2023	Allowed
2893/2023	Allowed	740/2023	Dismissed
3260/2023	Dismissed	13513/2023	Dismissed
2211/2023	Allowed	17956/2023	Allowed
575/2023	Allowed	28912/2023	Allowed

173. W.P.(MD) Nos.8653, 5413, 6457, 6443, 6556, 4983, 5396, 15120, 5492, 5449, 8999, 5782, 5419, 6333, 6215, 13994, 8421, 6709, 9163, 6686, 11273, 14567, 11121, 8768, 7444, 12885, 5497, 8832 of 2023 & 14546, 21199 of 2022; 11890, 15105, 15553, 15477, 15020, 8558, 9975, 14353, 10852, 13147, 2734, 10718, 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 of 2023 & W.P. No.831 of 2022 & W.P. No.7267 of 2023:



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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.

[173a. The learned Counsel for the Petitioner in W.P.(MD) No.5613 of 2023 submitted that the Writ Petition is filed challenging the Constitutional vires of Section 77-A. However, in Paragraph No.173, the said Writ Petition has now been dismissed as if the Writ Petition is filed for issuance of a Writ of Mandamus to consider the representation of the Petitioner. On verification of records, this Court found that the submission of the learned Counsel for the Petitioner is true. Hence, W.P.(MD) No.5613 of 2023 is allowed as prayed for.]

174. W.P. Nos. 10291 of 2022, 15128, 31128, 15905, 9125, 8445, 2792, 20907, 19264 & 11009 of 2023, W.P.(MD) Nos.9534, 9770, 5418, 9681, 18274, 14865, 13770, 9691, 5108, 13385, 9638, 4840, 10315, 6288, 15197, 15822, 18883, 18419, 13642 of 2023 & 4073, 19148 of 2022:



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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 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.

[174a. Mr. D. Shanmugaraja Sethupathi, learned Counsel appearing for Respondents 4 to 6 in W.P.(MD) No.13824 of 2023 submitted that the Writ Petition is filed challenging the Order of the District Registrar refusing to cancel registration of the document. Therefore, the decision of the District Registrar is in favour of the private Respondents. However, vide Judgment, dated 2.8.2024, this Court while disposing of the Writ Petition along with the batch, had inadvertently allowed the Writ Petition in Paragraph No.174, as if the Writ Petition is to quash the proceedings issued by the District Registrar, cancelling registration of documents in exercise of his power under Section 77-A of the Act. Considering the submission made by the learned Counsel for the Respondents 4 to 6, W.P.(MD) No.13824 of 2023 stands dismissed.]



175. W.P.(MD) Nos. 14674, 7704, 8987 of 2023; 16445 of 2022; W.P. Nos. 10604 of 2020, 17719, 12480, 24805, 24610 of 2022 & 10858 of 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. W.P.(MD) Nos. 12208, 13666, 9213, 14121, 13172, 13895, 13746, 3419 of 2023, 8679/2023, W.P.Nos. 15543, 13188, 22561, 31075, 31079 of 2023; W.A. No.2963, 2211, 2386 of 2023, 575 of 2024: W.P. Nos. 15557, 13567, 8305, 10525, 22570, 9386, 15825 of 2023:

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.

[176a. The Writ Petition in W.P.(MD) No.8357 of 2023 is filed to quash the impugned Order passed by the District Registrar, dated 19.12.2022 as illegal. The Order of the District Registrar is in exercise of power under Section 77-A of the Act. A



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Representation was submitted by one B.Nagaraja. In the Representation, the said Nagaraja stated that his father by name Thiru.V.Balasubramanian died on 24.4.2017. It is stated further that after the death of his father, he is entitled to inherit the property along with his mother and three daughters. However, one V.Balasubramanian by impersonation, executed a Sale Deed by committing forgery. During the enquiry, the Registering Officer found that the father of the Complainant died on 24.4.2017 and the Complainant has obtained the Death Certificate as well as the Legal Heirship Certificate to show that the Complainant and his sibilings are the Legal Heirs of his deceased father. However, three years later, a different person created a forged Sale Deed as if Complainant's father Mr.V.Balasubramanian executed a Deed of Conveyance, by fabricating forged Aadhar Card and other documents. It was alleged that a Third party, created a forged Sale Deed by forgery and impersonation. The District Registrar entertained the Complaint as there was no Interim Stay passed by any Court during pendency of the Writ Petitions. This Order, which is challenged in the Writ Petition shows that the document has been registered by committing fraud, forgery and impersonation. From the proceedings of the District Registrar, dated 19.12.2022, it is seen that the District Registrar, unlike in other cases, has elaborately considered the facts and materials placed before him and passed a detailed Order holding that the registration was obtained by committing fraud, forgery and impersonation. Even though this Court has held that the District Registrar has no power under the Registration Act to cancel registration of documents, this



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Court has also held that registration of such document can be cancelled by this Court by exercising its Extraordinary jurisdiction under Article 226 of the Constitution of India in cases of fraud or impersonation. This Court in appropriate cases entertained Writ Petitions, if documents are registered by committing fraud or impersonation if it can be demonstrated on admitted facts or by documents, which are admitted. Even though order of District Registrar is without jurisdiction, this Court can cancel registration in extreme cases of fraud and impersonation if this happened due to failure in adhering to procedure required to be followed. Since this Court has not heard the Writ Petition on merits, this Writ Petition, namely, W.P.(MD)No.8357 of 2023 is delinked and this may be heard independently on merits by the Bench concerned in accordance with the findings and observations of this Court made in W.P.No.10291 of 2022, etc. batch vide Order, dated 2.8.2024.]
W.P. No.26952 of 2023:

177. Since this Court holds that Section 22-B is not unconstitutional, the Writ Petition is partly allowed.

W.P. No.4161 of 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



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invalidating any transaction is unconstitutional and hence, the impugned Circular, dated 8.11.2017 is declared as unconstitutional. The Writ Petition stands allowed.”

5. Therefore, the prayer sought for in this writ petition cannot be considered and the writ petition is itself devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs. However, the petitioner is at liberty to approach the civil Court for appropriate relief.

02.12.2024

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



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G.K.ILANTHIRAIYAN. J,

RJR

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