



W.P.(MD)No.28906 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.12.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.28906 of 2024

and

W.M.P(MD)No.24487 of 2024

S.Jammal Mohamed

... Petitioner

/Vs./

1.The Inspector General of Registration,  
Shanthom High Road,  
Chennai.

2.The Deputy Inspector General of Registration,  
Ramanathapuram Zone and District,  
Ramanathapuram.

3.The District Registrar (Administration),  
District Registrar Office,  
Ramanathapuram District.

4.The Sub-Registrar,  
Rajasingamangalam,  
Ramanathapuram District.

5.C.Saahul Hameed

6.Asha Begum

7.Mohammad Hasan Musharraf

... Respondents



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**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the third respondent in his proceedings in Na.Ka.No.3908/AA5/2024 dated 10.10.2024 and quash the same as illegal and further direct the respondents 1 to 4 herein to classify Document No.788/2024 dated 08.05.2024, on the file of the fourth respondent herein as fraudulent document in the light of judgment and decree dated 15.10.2019 passed in S.A.No.390 of 2019.

For Petitioner : Mr.D.Nallathambi

For R1 to R4 : Mr.S.P.Maharajan

Special Government Pleader

### **ORDER**

This writ petition has been filed challenging the order passed by the third respondent, dated 10.10.2024, thereby, dismissed, the complaint lodged by the petitioner seeking cancellation of settlement deed registered vide document No.788 of 2024 on the ground that the provision under Section 77-A and 77-B and 68(2) were declared as unconstitutional by this Court.



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2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The case of the petitioner is that the property comprised in old S.No.77/3, new S.No.268/11 in Patta No.1399 bearing Door No.14/27, New Door No.14-27/14-4-10 to an extent of 2269 sq.ft situated at R.S.Mangalam Village and Post, Ramanathapuram District originally belonged to one Senni Mohamed Rawuther. Subsequently, he had executed a sale deed in favour of his son P.A.S.Mohamed Yasin Rawuther on 13.02.1951. He died leaving behind his wife and children. The legal heirs of P.A.S.Mohamed Yasin Rawuther had executed a power of attorney in favour of the petitioner to deal with the subject property. While doing so, the fifth respondent, who is being second wife's son of the P.A.S.Mohamed Yasin Rawuther, was permitted to occupy the subject property as permissive occupant. Thereafter, the fifth respondent refused to vacate the premises and as such, the petitioner caused legal notice to the fifth respondent to vacate the premises and also cancelled the permission to occupy the subject property. However, the fifth respondent



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failed to vacate and as such, the petitioner was constrained to file a suit in O.S.No.110 of 2011, on the file of the Sub-Judge, Ramanathapuram, for decalaration and for recovery of possession. It was decreed in favour of the petitioner by the judgment and decree, dated 11.08.2017 and it was confirmed by the appellate Court in A.S.No.31 of 2018 by the judgment and decree, dated 07.01.2019. This Court in S.A(MD)No.390 of 2019 by the judgment and decree, dated 15.10.2019 dismissed the second appeal. On the execution petition, the possession of the property was also taken over by the petitioner from the fifth respondent. The delivery was recorded in the execution proceedings in E.P.No.12 of 2018 and the same was closed by the Executing Court. While being so, the fifth respondent executed the settlement deed, dated 08.05.2024 in favour of his wife in respect of the subject property. Therefore, the petitioner lodged a complaint before the third respondent to cancel the settlement deed executed by the fifth respondent. Though the third respondent rejected the complaint on the ground that the provisions under Sections 77-A, 77-B and 68(2) of the Registration Act were declared as unconstitutional, the District Registrar can enquire the complaint under Sections 82 and 83 of the Registration Act since the fifth respondent committed fraud on the



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orders passed by the Courts and executed the settlement deed in favour of his wife, namely, the sixth respondent.

7. In view of the above, this Court finds infirmity in the order passed by the third respondent, dated 10.10.2024 and it cannot be sustained and liable to be quashed.

8. Accordingly, the order of the third respondent dated 10.10.2024 is quashed and the writ petition is allowed. The complaint is remanded back to the third respondent for fresh enquiry and for fresh disposal. The third respondent is directed to issue notice to the petitioner and the respondents 5 & 6 after giving an opportunity of hearing conduct an enquiry under Section 82 and 83 of the Registration Act and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9. It is made clear that till the disposal of the complaint lodged by the petitioner, there should not any further registration in respect of the subject property on the basis of the settlement deed executed by the fifth



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respondent in favour of the sixth respondent. No costs. Consequently, connected miscellaneous petition is closed.

**05.12.2024**

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

- 1.The Inspector General of Registration,  
Shanthom High Road,  
Chennai.
- 2.The Deputy Inspector General of Registration,  
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**G.K.ILANTHIRAIYAN, J.**

am

Order made in  
**W.P.(MD)No.28906 of 2024**

Dated:  
**05.12.2024**