



W.P.(MD) No.1606 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.1606 of 2024

and

W.M.P.(MD) No.1630 of 2024

S.Ananthakrishnan

... Petitioner

-VS-

1.The District Registrar (Administration),
Sivagangai.

2.Sub-Registrar, Manamadurai,
Sivagangai District.

3.S.Jayaraman

4.C.Ramachandran

5.Prabakaran

6.Magendran

7.Tmt.Ambukarasi

8.Sakthiendran

9.Meenachi Sundaram

10.Tmt.Janani

11.Karthikayan

12.NP.Velmurugan

... 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 relating to the order of the first respondent in MU.MU.No.268/E1/2023, dated 10.05.2023 and to quash the same and consequently direct the first respondent to issue suitable direction to his subordinates to delete the sentences directed by him in the said order.

For Petitioner : Mr.A.Sivaji
For R1 & R2 : Mr.M.Senthil Ayyanar
Government Advocate
For R3 : Mr.V.Selvakumar
For R12 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent, dated 10.05.2023 thereby cancel the sale deed dated 06.06.2013 document No.2307 of 2013, which was executed by two sons of Chinnandi in favour of the petitioner.



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

3. Now the power of the first respondent to cancel the document under Section 77A of the Tamil Nadu Registration Act has been dealt with by this Court and Section 77-A of the Act itself is declared as unconstitutional.

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. 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,*



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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 /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,



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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 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



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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:-

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



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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.

*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]*



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is binding on the Registering Authority and the Registering Authority shall meticulously follow the directions. No costs. Consequently, connected miscellaneous petitions are closed.”

5. In view of the above, the impugned order dated 10.05.2023, passed by the first respondent cannot be sustained and it is liable to be quashed.

6. Accordingly, this writ petition is allowed and the impugned order dated 10.05.2023, passed by the first respondent, is hereby quashed. However, the respondents 3 to 14 are 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.

19.11.2024

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

- 1.The District Registrar (Administration),
Sivagangai.
- 2.Sub-Registrar, Manamadurai,
Sivagangai District.



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G.K.ILANTHIRAIYAN, J.

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