IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.3174 of 2025
and
W.M.P.Nos.3505 and 3511 of 2025

1.R.Ramakrishnan
2.R.Balasekaran
3.S.Sreeram ... Petitioners

Vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Santhome, Chennai - 600 008.

2. The District Registrar (Admin)
Office of the District Registrar - Chennai South
Integrated Building for officers of the
Commercial Taxes and Registration,
Fanepet, Nandanam,
Chennai - 600 035.

3. The Sub-Registrar,
3rd Main Road, Ram Nagar,
Jagannatha Puram,
Velachery, Chennai - 600 042.

4. S.Prabhu
5. R.Murugesan
6. K.Pasumpon
7. Malathi
8. T.Thirunavukarasu ...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, to direct the 3rd respondent to remove the remarks in the entries in encumbrance certificate pertaining to Document Nos.1509 of 2004, 1575 of 2007, 284 of 2008, 292 of 2008, 3239 of 2008, 735 of 2008, 5481 of 2017 registered on the file of the 3rd respondent in the light of the judgment of this Court dated 18.01.2024 passed in W.A.No.2569 of 2023.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.C.Sathish
Government Advocate

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ORDER

This writ petition has been filed for a mandamus directing the third respondent to remove the remarks in the entries of the encumbrance certificate pertaining to Document Nos. 1509 of 2004, 1575 of 2007, 284 of 2008, 292 of 2008, 3239 of 2008, 735 of 2008, and 5481 of 2017, registered on the file of the third respondent, in light of the judgment of this Court dated 18.01.2024 in W.A. No. 2569 of 2023.

2.The brief facts that have led to the filing of this writ petition are stated below:-

The fourth respondent has preferred a complaint before the second respondent, alleging that his relative has forged documents and sold the property to one Pasumpon through an intermediary, Murugesan. He further states that Murugesan and Pasumpon constructed flats on the property and sold them to the petitioners. Since all these transaction are allegedly fraudulent the same should be declared fraudulent and set aside.

3. The second respondent, even before hearing the petitioners, passed an order dated 14.02.2023 under Section 77-A of the Registration Act, declaring them document as fraudulent and directed that no other documents would be registered based on the aforesaid documents. Challenging this order, the petitioners filed W.P. No. 11726 of 2023, which was disposed of by an order dated 02.08.2023, holding that though the order was passed in violation of the principles of natural justice it can be tested only in an appeal.

4. Challenging the order passed in W.P. No. 11726 of 2023, the petitioner filed W.A. No. 2569 of 2023. The Division Bench observed that the order passed by the second respondent was in violation of the principles of natural justice. Accordingly, it quashed the order of the second respondent and remitted the matter back for a fresh inquiry in accordance with the provisions of Section 77-A of the Registration Act.

5. Pending the Writ Petition, the fourth respondent executed a settlement deed dated 24.04.2023 in favor of his wife, the seventh respondent herein. Based on this settlement deed, the seventh respondent executed a sale agreement in favor of the eighth respondent.

6.Pending the enquiry before the second respondent, Section 77A of the Registration Act was annulled as unauthorized by order of the Division Bench in a batch of writ petition in W.P.Nos.10291 of 2022 etc. By reason of this judgment, the settlement deed dated 02.08.2023 and the sale agreement executed on the basis of the order of the second respondent would automatically become invalid as the order of the second respondent in exercise of his powers under Section 77A of the Registration Act is deemed not to have existed. Hence, the petitioners have filed this writ petition.

7. Heard the learned counsels on either side.

8. Considering the fact that the document under which the petitioner claims a right has been set aside by the second respondent by drawing powers under Section 77A of the Registration Act, the order dated 14.02.2023, issued by the second respondent, is to be set aside for the reasoning stated supra. Consequently, the entries made based on this order of the second respondent dated 14.02.2023 must be removed, and the remarks against the document under which the petitioners claim a title should also be deleted.

9. Therefore, the Writ Petition is allowed, and a mandamus is issued to the fourth respondent to consider and pass orders on the petitioner's representation dated 19.08.2024, within a period of two (2) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected W.M.Ps are closed.

30.01.2025

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Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

To

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