

W.A. No.1752 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

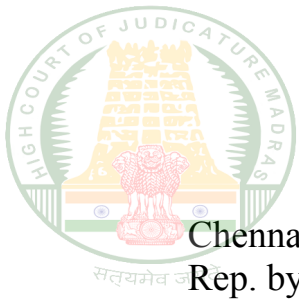
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Shankar

.. Appellant

VS

- 1.The Director
Directorate of Town & Country Planning
2nd, 3rd, 4th Floor, C&E Market Road
Koyambedu, Chennai - 600 107
- 2.The Regional Officer
O/o.the Directorate of Town & Country Planning
No.6, Sannathi Street, Subramania Nagar
Suramangalam, Salem, Tamil Nadu 636 302
- 3.The Executive Officer
Erumaipatty (Town Panchayat)
Sendamangalam (Tk), Namakkal District
- 4.The Sub Registrar
Sub Registrar Office
Erumaipatty Block, Sendamangalam (Tk)
Namakkal District, Tamil Nadu - 637 013
- 5.M/s.Indian Oil Corporation Ltd.,



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Chennai Division
Rep. by its Southern Regional Manager
Indian Oil Bhavan
No.139, Nungambakkam High Road
Chennai - 31

6.The Indian Oil Corporation Ltd,
Rep. by its Authorised Manager
Petrol bunk outlet, Kaikatti
Erumaipatty, Namakkal

7.K.Srinivasan

8.S.Elangovan

9.S.Rajeswari

10.S.Dhanalakshmi

11.A.V.R.Venkatesan

12.A.V.R.Ravikumar

13.A.V.R.Kannan

.. Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act to set aside the order passed by the learned Judge in W.P. No.33694 of 2024 dated 20.11.2024.

For Appellant : Mr.G.Munuraj

JUDGMENT
(made by N.SENTHILKUMAR, J.)



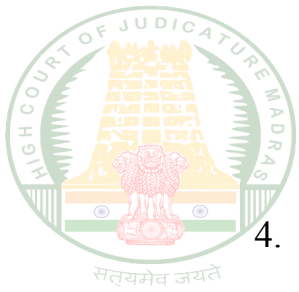
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Challenging the order of the learned single Judge dated 20.11.2024 passed in W.P. No.33694 of 2024, the present writ appeal has been filed by the appellant herein/writ petitioner.

2. Since no adverse order is going to be passed against the respondents, notice to the respondents is not necessary and this writ appeal is being disposed of at the stage of admission itself, after hearing the appellant/writ petitioner.

3. According to the appellant/writ petitioner, his father, who was arrayed as the seventh respondent in the writ petition/7th respondent in the writ appeal, had purchased a property from the income derived from the ancestral property. The seventh respondent, namely K.Srinivasan, was forced to execute a Power of Attorney dated 24.03.1986 in favour of one R.Govindasamy. The said Govindasamy sold the property vide sale deed dated 13.11.1986 registered as Document No.P53/1144 of 1986 to A.V.Rangasamy. The said A.V.Rangasamy, in turn, had gifted the property in favour of his three sons, who were arrayed as respondents 11 to 13 herein, namely A.V.R.Venkatesan, A.V.R.Ravikumar and A.V.R.Kannan.



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4. The writ petitioner made a representation to the respondents on 20.04.2024 to cancel the sale deed dated 13.11.1986. As no action emanated from the respondents, the appellant herein/writ petitioner has filed the writ petition. The learned single Judge, upon hearing the parties, had dismissed writ petition on the ground that power of Registrar as contemplated under Sections 77-A, 77-B and 22-B of the Registration Act has been struck down by the Division Bench of this court in ***M.Kathirvel Vs. Inspector General of Registration, Department of Registration and others*** reported in (2024) 4 CTC 769. The relevant paragraph was extracted in the order of the writ court in paragraph 5, which is extracted hereunder:

"5. The constitutional validity of Section 77-A, 77-B and 22-B of the Registration Act which have been introduced by the Registration [Tamil Nadu Second Amendment Act] 2021 [Act 91 of 2022] and its retrospective operation had been referred to the Division Bench in the case of M.Kathirvel Vs. Inspector General of Registration Department of Registration and Others reported in (2024) 4 CTC 769. The division bench after tracing the history of the enactment and considering the various judicial precedence had held as follows:-

"84. The object of Registration Act is only to maintain public record in relation to immovable properties. Merely because a document executed by a person without title is registered, that does not affect



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the title of true owner. In other words, the question of title cannot be decided merely on the basis of registered documents of conveyance, even though such documents may be considered as evidence of transactions. Cancellation of a registered instrument after the transfer of right in immovable property is often the subject matter of suit under Section 31 or Section 34 of the Specific Relief Act. By registration, the Registering Officer only gives the seal of approval to the instrument and by registration, the Registering Officer does not recognise the title of individuals. Registration is a formality to complete the transfer of conveyance between two parties. A power conferred on the registering authority to cancel the registration is not therefore provided under the Act unless the document of conveyance or cancellation is signed by both parties. Even though the object of Registration Act and the amending Act are not different from the grounds on which the cancellation of registered deeds can happen under Section 77-A, we are of the view that the impugned legislation is nothing but creation of a new forum in the place of Civil Court. This cannot be permitted by constitutional Courts to protect the rights of parties to the documents.

85. Even the Civil Court-s jurisdiction to cancel the instrument is only when the transaction as such, is hit by any provisions of Indian Contract Act for being void or voidable. Article 56 of Schedule to



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Limitation Act deals with suits to declare the forgery of an instrument issued or registered. The limitation for filing a suit is three years from the date of execution or from the date when the plaintiff comes to know about the registration. Article 59 of Schedule to Limitation Act prescribes three years for filing a suit to cancel or to set aside an instrument or decree. Limitation starts when the facts entitling the plaintiff to have the instrument or decree cancelled or set aside become known to the plaintiff. Section 27 of the Limitation Act extinguish the right to property at the determination of the period limited to any person for instituting a suit for possession of any property. The principle underlying Section 27 of the Limitation Act is that a person who is having a right to possession fails to file a suit within the prescribed period of limitation, will leave his title in favour of the party in possession. Now under Section 77-A of the Registration Act without any restriction, even documents which were registered some decades ago, can be challenged and the registration of the same can be cancelled on specific grounds which are enumerated under Section 22-A and Section 22-B. In the counter affidavit, the respondents have admitted this position and supported the enactment on the principle of equity. Even though a suit filed under Section 31 of Specific Relief Act is dismissed on the ground of limitation, power under Section 77-A can



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still be exercised by the Registrar. This situation renders the enactment unconstitutional being contrary to the doctrine of separation of power.

86. When judicial Forum administered by qualified and trained judges who are accountable and guided by procedures, norms, principles and precedents is available, providing parallel remedy before executive authority to decide as to the legal sanctity of registered documents, is unconstitutional. There is no certainty to any documents of conveyance if an executive authority is given unguided power which can also be misused to invalidate even genuine transaction in the absence of proper guidelines by legislation.”

Thereafter upon considering a few cases which had been decided by the Registrar and which was the subject matter of challenge, the division bench had held as follows:-

“ From the above discussion on this issue and from perusal of the records including the orders of Registrar under Section 77-A in some of the cases and the principles laid down by Hon-ble Supreme Court above referred to, this Court is unable to sustain the impugned provision, particularly, Section 77-A and has no hesitation to strike down Section 77-A for being contrary to the fundamental principle that judicial power to decide substantial rights of the parties involving complicated issues on facts and law



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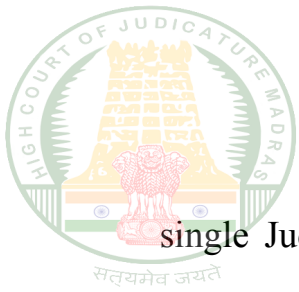


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resulting in serious legal implications affecting the property rights of parties to the transactions cannot be delegated to executive authorities. “

5. The power of the Sub Registrars under Section 77-A of the Registration Act to conduct an enquiry like a civil court has been struck down by the Division Bench in the aforesaid case and the grievance of the appellant herein/writ petitioner is that based on his representation, the appellant herein/writ petitioner wanted to annul the sale deed dated 13.11.1986, registered as Document No.1144 of 1986.

6. It is to be noted that the appellant herein/writ petitioner has averred in paragraph 11 of the affidavit filed in support of the writ petition that the seventh respondent herein had filed a suit in O.S. No.269 of 1998 as a partition case, which was disposed of on 16.02.2017. As the issue was settled by the civil court, which had attained finality and in the absence of any appeal filed as against the judgment in O.S. No.269 of 1998, invocation of writ jurisdiction by giving a representation dated 20.04.2024 for invoking Section 77-A of the Registration Act, which has struck down by a Division Bench of this court is non-est in the eye of law. The learned single Judge has rightly dismissed the writ petition. We do not find any error or infirmity in the order of the learned



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single Judge dated 20.11.2024 passed in W.P. No.33694 of 2024, warranting interference in this writ appeal.

7. Accordingly, the writ appeal fails and the same is dismissed at the stage of admission itself. However, there is no order as to costs.

**[A.S.M., J] [N.S., J]
17.06.2025**

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes
Asr

To

1. The Director

Directorate of Town & Country Planning
2nd, 3rd, 4th Floor, C&E Market Road
Koyambedu, Chennai - 600 107

2. The Regional Officer

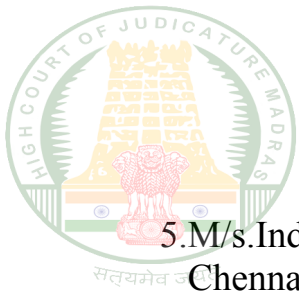
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7.The Government Pleader,
High Court, Madras

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