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W.P.No.14320 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.14320 of 2023
and WMP Nos.13833 of 2023

1.Tmt.J.Sajora

2.J.Gokila

3.J.Jalatheeswar

4.J.Jayanthi

5.J.Gomathi

6.J.Thulasi

.... Petitioners

-Vs-

1.The District Registrar (Chennai North)

Office of the District Registrar

Chennai – North

1st Floor, Kuralagam Building

Chennai 600 001.

2.The Sub Registrar

Office of the Sub Registrar

Madhavaram

1st Street, Roja Nagar

Madhavaram, Chennai 600 060.

3.J.S.Nalini

4.E.Nirmala

5.T.Parimala



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6.C.Suseela

7.T.Rajeswari

8.Tmt.Bajjiyam

9.Thyagarajan

10.Tmt.Gomatheeswari

11.Tmt.Pavithra

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 1st and 2nd Respondents not to conduct enquiry till the disposal of original suit in OS. No 460 / 2023 which is pending before the XXII Additional City Civil Court, Chennai.

For Petitioners : Mr.S.Illamvaludhi

For Respondents : Mr.Abishekmurthy
Government Advocate
for R1 & R2

No appearance for R3 to R10

ORDER

This writ petition was filed for the issue of a writ of mandamus directing the 1st and 2nd respondents not to proceed further with the enquiry and pass orders till the suit in O.S.No.460 of 2023 on the file of XXII Additional City Civil Court, Chennai is disposed of.



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2.The case of the petitioner is that there was a dispute which resulted in filing of a suit in C.S.No.1131 of 2009, before this Court. This suit was subsequently transferred to the file of XXII Additional City Civil Court, Chennai and was renumbered as OS.No.460/2023. When this suit was pending, the rival parties who are the private respondents herein gave a representation to the 1st respondent seeking for cancellation of two documents registered as Document Nos.5407 of 2015 and 5572 of 2017. On receipt of the representation, the 1st respondent issued notice dated 05.04.2023 to the petitioners and also to the private respondents to attend the enquiry on 22.04.2023. On that date, the parties appeared and the matter was adjourned to 15.05.2023. In the meantime, the petitioners filed the present writ petition on 02.05.2023. The matter came up for hearing on 05.05.2023 and this Court passed the interim order to the effect that the enquiry can go on and final order should not be passed till 22.06.2023. Unfortunately, the matter was not listed and the interim order was not extended. It is brought to the notice of this Court that the 2nd respondent taking advantage of the fact that the interim order was not extended, proceeded to pass an order dated 21.07.2023 cancelling the documents.

3.The above fact was brought to the notice of this Court on 27.11.2024 and this Court passed the following order:

It is seen that despite the order of stay which no doubt had expired, the authority, namely, the 1st respondent has proceeded to pass orders on 21.07.2023. The records does not indicate as to whether an



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enquiry has been held in the matter. Therefore, the original records pertaining to the proceedings shall be produced before this Court.

2. Post the matter on 03.12.2024.

4.The matter was thereafter listed for hearing today and this Court heard the learned counsel for the petitioners and the learned Government Advocate appearing on behalf of the 1st and 2nd respondents. The private respondents have been served with notice and their names have also been printed in the cause list and there is no appearance either in person or through counsel.

5.It was brought to the notice of this Court that the suit that was pending in OS.No.460 of 2023 on the file of the XXII Additional City Civil Court in Chennai was dismissed on 26.06.2024 for non-prosecution.

6.In the considered view of this Court the 1st respondent ought not to have passed the final order when the writ petition is pending and when an interim order was passed by this Court initially. The 1st respondent cannot take advantage of the fact that the interim order was not extended and thereby proceed to pass final orders. The alacrity with which the 1st respondent has passed the order is quite astounding. There is something more than what meets the eye in this case. This Court does not want to make any further comments and this Court warns the 1st respondent not to repeat such act in future.



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7.The order passed by the 1st respondent in any case is illegal since such power is available to the 1st respondent only under Section 77A of the Registration Act and the said provision has already been held to be unconstitutional by the Division Bench of this Court in ***M. Kathirvel v. Inspector General of Registration Department and Others*** reported in **2024 4 CTC 769**. Hence, the order passed by the 1st respondent dated 21.07.2023 is non-est in the eye of law. Accordingly, the same is hereby set aside. In view of the same, the documents registered as Document Nos.5407 of 2015 and 5572 of 2017 are restored to their original position.

8.In the result, this Writ Petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

05.02.2025

Index : Yes/No
NCS : Yes/No
KP

To

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N.ANAND VENKATESH, J.

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