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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

CORAM :

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

Writ Petition No.21704 of 2024

Mrs.Sona @ Hyacinth Raju

.... Petitioner

-Vs-

1.The Inspector General of Registration
No.100, Santhome Main Road
Mullima Nagar, Mandavelipakkam
Raja Annamalai Puram
Chennai 600 028.

2.The District Registrar
Registration Department
No.182, Bharati Salai
Pycrofts Road, Royapettah
Chennai 600 014. (Near Clock tower)

3.The Manager
Marketing and Service
Anna Nagar Divison
Tamil Nadu Housing Board
Thirumangalam, Chennai 600 101.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to implement the letter sent by the 3rd respondent in his proceedings no.A.NA.KO.7/1671/2022 dated 12.09.2023.

For Petitioner : Mrs.Thenmozhi Shivaperumal



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For Respondents : Mr.P.Harish
Government Advocate
for R1 & R2

Mr.D.Veerasekaran
for R3

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the 2nd respondent to act upon the letter issued by the 3rd respondent dated 12.09.2023 and to cancel the rectification deed dated 31.5.2022 executed in the name of the petitioner's son based on fake legal heirship certificate by suppressing the name of the petitioner who is none other than the mother.

2.Heard Mrs.Thenmozhi Shivaperumal, learned counsel for the petitioner, Mr.P.Harish, learned Government Advocate for R1 & R2 and Mr.D.Veerasekaran, learned counsel for R3.

3.The 3rd respondent through proceedings dated 12.09.2023, has addressed a communication to the 2nd respondent stating that the subject property was originally purchased in the name of the petitioner's husband late Raju @ George Raju and that after his demise, the property was inherited by the petitioner and her son. However,



the petitioner's son managed to get a legal heirship certificate as he is the only surviving heir and based on the same, a rectification deed was prepared and presented for registration. Hence, the said rectification deed is a fabricated documents which requires to be cancelled. The 3rd respondent therefore requested the 2nd respondent to cancel the rectification deed.

4.The power to cancel a document is no longer available to the registration department since 77A of the Registration Act has 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**.

5.It is an admitted case that the property belonged to the Housing Board and it was purchased by the petitioner's husband through a registered sale deed dated 06.12.1993. The petitioner's husband died on 04.04.1999 leaving behind the petitioner and her son. It is alleged that the petitioner's son is not taking care of the petitioner and the petitioner has already filed petition seeking for maintenance and those proceedings are pending. In the meantime, the petitioner's son has managed to obtain a legal heirship certificate as if he is the only surviving legal heir. Based on the same, a rectification deed dated 31.05.2022 was made ready to rectify the schedule of property and this document was also registered as Document No.4840 of 2022. Taking into advantage of the same, he also executed a power of attorney



document in favour of his son on 30.11.2022 which was registered as Document No.8454 of 2024. It is under these circumstances, the petitioner gave a complaint and based on the same, the 3rd respondent wrote to the 2nd respondent to cancel the document.

6.In the considered view of this Court, the rectification deed dated 31.05.2022, does not confer any exclusive right on the petitioner's son. On the demise of her husband, the petitioner and her son have inherited the property and both of them have 50% share in the property. The power of attorney executed by the petitioner's son in favour of his wife for the entire property, is non-est in the eye of law.

7.It is made clear that the rectification deed dated 31.05.2022, does not confer any exclusive right on the petitioner's son and the petitioner and her son are declared to have equal rights in the subject property. Therefore, if any attempt is made by the petitioner's son to submit any document for registration as if he is the exclusive owner of the property, the same shall not be entertained. In order to ensure that this order is complied with, the certified copy of this order shall be presented for registration and it shall be registered by making the necessary entry. This direction will sufficiently take care of the right and interest of the petitioner in the subject property.



This writ petition is disposed of in the above terms. No costs.

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Index : Yes/No
NCS : Yes/No
KP

To

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N.ANAND VENKATESH, J.



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