IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 17.07.2025**

CORAM

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P.No.23113 of 2024**
**and**
**W.M.P.Nos.25233 & 25234 of 2024**

P.Nagarajan ... Petitioner

Vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2. The District Registrar,
Dharmapuri District,
Dharmapuri.

3. The Revenue Divisional Officer,
Dharmapuri Taluk,
Dharmapuri.

4. The Tahsildar,
Dharmapuri Taluk,
Dharmapuri.

5. S.Madeshwaran ... Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India, seeking for an issuance of writ of certiorarified mandamus, to call for the entire records relating to the impugned order dated 02.07.2024 in proceedings Na.Ka.No.31087/U5/2023 passed by the 1st respondent herein and quash the same and consequently direct the fourth respondent to restore the revenue records in the name of petitioner in Survey No.89/1B, A.Reddihalli Village, Dharmapuri Taluk, Dharmapuri.

For Petitioner : Mr.V.C.Janarthanan

For Respondents : Mr.U.Baranidharan
Special Government Pleader for R1 to R4

: Mr.P.Valliappan
Senior Advocate
for Mr.P.M.Jayachandran for R5

**ORDER**

The writ petition is filed challenging the order dated 02.07.2024 in proceedings Na.Ka.No.31087/U5/2023, passed by the 1st respondent herein, by invoking Section 77-A of the Registration Act.

2. The case of the petitioner is that he is the absolute owner of the subject property comprised in Re Survey No.89/4, situated at Amani Reddihalli Village, Dharmapuri Taluk, purchased vide Sale Deed dated 13.01.2014 registered as Document No.70 of 2014 on the file of SRO, Joint I, Dharmapuri. It is submitted that ever since the above purchase petitioner has been in peaceful possession and enjoyment of the subject property. Revenue records such as Patta and Chitta also is stated to have been transferred and

stands in the name of the petitioner.

3. It is submitted that 5th respondent encroached petitioner's property and constructed a compound wall. Aggrieved, petitioner filed a civil suit in O.S.No.238 of 2022, before the Sub-Court, Dharmapuri. Pending suit, 5th respondent submitted a representation to 2nd respondent under Section 77-A of the Registration Act, 1908. On the above representation 2nd respondent passed an order dated 20.07.2023, cancelling the sale deed (sale deed executed in favour of the petitioner) registered as document No.70 of 2014 on the file of Sub-Registrar Office, Joint I Dharmapuri vide its proceedings in Na.Ka.No.4265/B3/2022. Aggrieved by the said order, the petitioner preferred an appeal before the 1st respondent and the same was confirmed. Hence the writ petition.

4. Before proceeding further it may be relevant to note that both the order dated 20.07.2023 and impugned order dated 02.07.2024 has been passed by 2nd and 1st respondent invoking Section 77-A of the Registration Act. It is submitted that when the impugned order was passed challenge to validity of Section 77-A of Registration Act was pending consideration. It

may be relevant to note that in the impugned order 1st respondent had made it clear that the order would be subject to the outcome of the decision of this Court. The relevant portion of the order is extracted hereunder:

> "இவ்வாணை மாண்பமை சென்னை உயர்நீதிமன்ற சிறப்பு அமர்வின் தீர்ப்பிற்கு கட்டுப்பட்டது எனவும் தெரிவிக்கப்படுகிறது."

5. Section 77-A of the Registration Act has since been struck down by this Court as being unconstitutional, in the case of ***M.Kathirvel Vs. The Inspector General of Registration, Department of Registration, 100 Santhome High Road, Chennai - 28 and Others*** reported in 2024 (4) CTC 769, vide order dated 02.08.2024. The relevant portion is extracted hereunder:

> *"167. This Court has already held that Section 77-A is unconstitutional and liable to the struck down. We have also held that Section 77-A is prospective in operation. Therefore, we are not going into Issues[E], [F] and [G] and is not necessary for us to go into those issues."*

6. Learned Special Government Pleader for the respondents 1 to 4, while submitting that Section 77-A is unconstitutional, however, would invite the attention of this Court to paragraph nos.10 and 11 of the counter affidavit filed by the 2nd respondent and the same is extracted hereunder:

> *"10. ..the District Collector, Dharmapuri in*

*communication No.RC.1786/2022/U1, dated 30.01.2023 had informed that, the compensation amounts for the acquisition of properties, for the purpose of NH7, had been disbursed to the four persons, vide Sl.No.2 to 4, who has registered the instant case sale deed in favour of the petitioner.*

*11. ...from this it is clear that the aforesaid four persons and the petitioner registered this instant case deed, despite knowing the fact of acquisition and award of compensation."*

7. The learned counsel for the 5th respondent would also submit that in view of proceedings under the Acquisition under the National Highways Act, 1956, the sale itself is illegal and had also produced a copy of newspaper publication under Section 3G(3) of the above Act, while also submitting a document stated to have been obtained under RTI Act, indicating receipt of compensation by the petitioner's vendors. It is submitted by the learned counsel for the petitioner that it is not clear as to whether the above extracts is from any statutory register and also doubts the genuineness. It appears doubtful to this Court, if the 5th respondent would even have locus to make any submissions on the legality or otherwise of the sale effected nor that of the impugned order.

8. In any view this Court finds that the impugned order invoking a provision held to be unconstitutional would be *void ab initio* and thus liable

to be set aside and the writ petition ought to be allowed. This Court has arrived at the above conclusion conscious of the position that Courts would not interfere with an illegal order if it were to result in reviving another illegality[1]. It is also the case of the petitioner that only a portion of the property comprised in the above survey numbers have been acquired. This is essentially a question of fact which ought to be decided by the appropriate authority under the Acquisition Act i.e., the National Highways Act. However, neither in the counter filed by the 2nd respondent nor the 5th respondent there is any material to show the extent of the land actually acquired and vested with the Central Government in terms of Section 30 of National Highways Act. I say so inasmuch as the following were not made available to this Court:

| ***Relevant Section of National Highways Act, 1956*** | ***Purpose of Notification*** | ***Status*** |
|---|---|---|
| Section 3A(1) | Preliminary Notification for Land Acquisition | Not produced before this Court |
| Section 3C(1) | Invitation for objections from Interested Persons | Not produced before this Court |
| Section 3D | Declaration of Acquisition (within 1 year of Section 3A) | Not produced before this Court |

1. 2008 15 SCC 105

8.1. Moreover, the document/extract submitted as evidence of payment of compensation for the stated acquisition of subject property under RTI, assuming compensation was in fact paid, does not disclose the register from which the above extract is taken nor is there any date on which the compensation was actually paid.

9. In the light of the above discussion this Court is inclined to set aside the impugned order and allow the writ petition. Needless to state that it is always open to the appropriate authority/Court to take action after providing the petitioner a reasonable opportunity of hearing in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

**17.07.2025**

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**Note: Registry is directed to upload the order copy on 21.07.2025.**

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

**MOHAMMED SHAFFIQ, J.**

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To

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   100, Santhome High Road,
   Chennai - 600 028.

2. The District Registrar,
   Dharmapuri District,
   Dharmapuri.

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