IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.31715 of 2024 & 11286 of 2025
and
W.M.P.No.34457 of 2024

W.P.No.31715 of 2024:

1.M/s.IVRCL PSC Pipes Private Limited,
M-22/3RT, Vijay Nagar Colony,
Hyderabad – 500 057.

2.M/s. Palladium Infrastructures & Projects Limited,
M-22/3RT, Vijay Nagar Colony,
Hyderabad – 500 057.

3.M/s.IVR Prime Developers (Nellore) Private Limited,
8-2-608-1-6, Naim Chambers,
Beside Of Coffee Shop, Road No.10,
Banjara Hills,
Hyderabad – 500 034.

Represented by its
Registered Power of Attorney;

A.M.Mohan .. Petitioners

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Mandaveli,
Chennai – 600 004.

2.The District Registrar,
Kancheepuram,
Kancheepuram District.

3.The Sub Registrar,
Sunguvarchattiram,
Sriperumpudur Taluk,
Kancheepuram District.

4.M.Lakshmanan

5.E.Seeralan

6.S.Kavitha .. Respondents

Prayer in W.P.No.31715 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing

(a) the 2nd and 3rd respondents to conduct enquiry and pass an order under the provision of the Registration Act that the sale deeds in Doc No 967 of 2017 dated 03.02.2017 and Doc. No 1253 of 2020 dated 10.07.2020 are as void, fraudulent transactions as the above sale deeds registered based on intentional false statements of the 4th, 5th and 6th respondents in line with the decision of this honble Court reported in W.P. (MD) No 10177 of 2021 dated 17.06.2021 paragraphs 10, 11 in S.R.M. Packiri Rajan V The Inspector General of Registration and the Honble Apex Court decision 2021 SCC Online SC 1097 Paragraphs 17, 18 in Keal Krishnan v. Rajesh Kumar; and

(b) Direct the 2nd and 3rd respondents to commence Criminal prosecution as against the 4th, 5th and 6th respondents for the offences committed under Sec. 82and 83 of the Registration Act 1908 in registering sale deeds in Doc. No 967 of 2017 dated 03.02.2017 on the pretext that entire sale consideration was paid to the petitioner by the 4th respondent other than online, cheque and demand draft mode running contrary to the provisions of the income tax Act and in Doc. No 1253 of 2020 dated 10.07.2020 on the file of the 3rd respondent by furnishing false statements with regard to payment of sale consideration based on the false negotiable instruments;

(c) Consequently direct the 2nd and 3rd respondents to make entry in the encumbrance certificate that the two sale deeds in Doc. No 967 of 2017 dated 03.02.2017 and Doc No. 1253 o f2020 dated 10.07.2020 registered on file of 3rd respondent are void and fraudulent transactions.

(In W.P.No.31715 of 2024):

For petitioners	:	Mr.S.Sathiaseelan
For RR 1 to 3	:	Mr.P.Harish Government Advocate

W.P.No.11286 of 2025:

1.M/s.IVRCL PSC Pipes Private Limited,
M-22/3RT, Vijay Nagar Colony,
Hyderabad – 500 057.

2.M/s. Palladium Infrastructures & Projects Limited,
M-22/3RT, Vijay Nagar Colony,
Hyderabad – 500 057.

3.M/s.IVR Prime Developers (Nellore) Private Limited,
8-2-608-1-6, Naim Chambers,
Beside Of Coffee Shop, Road No.10,
Banjara Hills,
Hyderabad – 500 034.

Represented by its
Registered Power of Attorney;

A.M.Mohan .. Petitioners

Vs.

1.The Tahsildar,
Sriperumpudur Taluk,
Kancheepuram District.

2.The Sub Registrar,
Sunguvarchattiram,
Sriperumpudur Taluk,
Kancheepuram District.

3.M.Lakshmanan

4.E.Seeralan

5.S.Kavitha .. Respondents

Prayer in W.P.No.11286 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the 1st respondent to lodge a criminal complaint invoking Section 17 and 18 of the Tamil Nadu Patta Pass Book Act, 1983, as against the respondents 4 & 5 for having furnished false information on its file, for changing the patta for the lands in Survey No.553/7B, 553/7C, 553/7D, 548/2, 548/3A, 548/7A, 554/1 & 567/1 totally to an extent of 09.80

Acres situated in "B" Chittoor Village, Sandhavellore, Sriperumpudur Taluk, Kancheepuram District in the name of the respondents 4 & 5 vide their application dated 23.09.2024 based on the sale deed in Document No.1253 of 2020 dated 10.07.2020 which was registered on the file of the 2nd respondent showing the cheques already used as sale consideration in the previous sale deed in Document No.2376/2017 dated 01.09.2017 by the 5th respondent and other stale, non-existent cheques also as sale consideration for the above sale deed dated 10.07.2020.

(In W.P.No.11286 of 2025):

For petitioners	:	Mr.S.Sathiaseelan
For RR 1 & 2	:	Mr.P.Sathish Additional Government Pleader

COMMON ORDER

W.P.No.31715 of 2024 has been filed for the issue of writ of mandamus directing the respondents 2 & 3 to conduct an enquiry and to pass orders to the effect that the sale deeds dated 03.02.2017 and 10.07.2020 are void and borne out of fraudulent transactions and for further direction to the respondents 2 & 3 to commence criminal prosecution against the respondents 4 to 6 under Sections 82 & 83 of the Registration Act and for a further direction to the respondents 2 & 3 to make necessary entry in the encumbrance certificate to the effect that the sale deeds dated 03.02.2017 and 10.07.2020 are void and fraudulent transactions.

2.W.P.No.11286 of 2025 has been filed for the issue of writ of mandamus directing the 1st respondent to lodge a complaint invoking the power under Sections 17 & 18 of the Tamil Nadu Patta Passbook Act as against the respondents 4 & 5 for having furnished false information and transferring the patta in their name with respect to the subject property.

3.Heard the learned counsel for the petitioners, learned Government Advocate for respondents 1 to 3 in W.P.No.31715 of 2024 and the learned Additional Government Pleader for respondents 1 & 2 in W.P.No.11286 of 2025.

4.The main grievance that has been expressed on the side of the petitioners is that the petitioner became the power agent by virtue of a power of attorney document dated 10.07.2015 registered as Document No.2849 of 2015. Based on this power of attorney document, the immovable property was sold to the 4th respondent for an agreed sale consideration of Rs.2,69,38,000/-. A substantial part of the sale consideration was not paid to the tune of Rs.2,01,88,000/-. As on the date of registration, the 4th respondent paid only a sale consideration of Rs.27,50,000/- and promised to pay the remaining sale consideration. Believing the words of the 4th respondent, the sale deed was registered and after the registration of sale deed, the balance sale consideration was not paid. In turn, the 4th respondent executed a power of attorney dated 03.02.2017 in favour of one Karthik, who transferred a sum of Rs.20,00,000/- on behalf of the 4th respondent to the petitioners towards part sale consideration. The 4th respondent also admitted the fact that the entire sale consideration was not paid and a Memo of Understanding was also entered into on 03.03.2017.

5.The further case of the petitioner is that the 4th respondent subsequently canceled the power of attorney given in favour of the said Karthik and even without receiving a single pie as a sale consideration from the respondents 5 & 6, executed the sale deed in their favour dated 10.07.2020 registered as document No.1253 of 2020.

6.The specific case of the petitioner is that the fraud committed by the respondents 4, 5 & 6 is apparent on the face of the document and the cheques which were already mentioned as sale consideration in the previous sale deed was also mentioned in the present sale deed dated 10.07.2020. The other cheque numbers which were mentioned in the sale deed was not even in use and the same is substantiated through the letter issued from the Bank of India dated 19.12.2023. Thereby, the respondents 5 & 6 purchased the property without even paying a single pie as consideration and thereby the respondents 4 & 5 had cheated the petitioner and the property was grabbed.

7.An FIR came to be registered based on the complaint given by the above Karthik in Crime No.21 of 2020 wherein the power agent Mohan was arrayed as A3 and the respondents 4 to 6 were arrayed as A1, A4 & A5. On completion of the investigation, a final report was also filed and since the said Mohan was arrayed as A3, he filed a quash petition and the same was dismissed by this Court dated 15.07.2022. SLP was filed against the said order and the same was allowed by an order dated 20.03.2024 and the final report was quashed in so far as the said Mohan is concerned.

8.It is under these circumstances, representations were made to the registering authority for commencing prosecution under Sections 82 & 83 of the Registration Act and to declare the sale deeds dated 03.02.2017 and 10.07.2020 is void and fraudulent and to make necessary entry in the encumbrance certificate. Since the same was not considered, W.P.No.31715 of 2024 was filed before this Court.

9.On the same cause of action, since the patta was transferred in the name of the subsequent purchasers, who are respondents 4 & 5 in W.P.No.11286 of 2025, the petitioner is seeking for initiating criminal complaint by directing the 1st respondent to invoke Sections 17 & 18 of the Tamil Nadu Patta Passbook Act.

10.In the considered view of this Court, the dispute between the parties pertains to non payment of the entire sale consideration and the further transaction that was entered into whereby it is alleged that the property was sold without receiving any consideration, only with a view to defraud the petitioner.

11.In so far as the claim made by the petitioner to declare the documents as fraudulent and as null and void, no such power is available under the Registration Act since Section 77A of the Registration Act has already been declared as unconstitutional by the Division Bench of this Court in ***M.Kathirvel Vs. Inspector General of Registration*** reported in ***[(2024) 4 CTC 769]***.

12.In the very same judgment, the Division Bench also considered the scope of Section 68(2) of the Act and it was held that registering authority cannot declare any document as null and void or fraudulent. In view of the same, as on today, there is no power available to the registering authority to cancel any document or to declare any document as null and void.

13.That leaves this Court with the other limb of the relief sought for by the petitioner to initiate prosecution against the private respondents under Sections 82 & 83 of the Registration Act.

14.In so far as penalty, that has been dealt with under Section 82 of the Act, it deals with four classes of offences and they are:

(a)Intentionally making false statement before the registering officers;

(b)Intentionally delivering to a registering officer false copy or translation of a document or a map or a plan;

(c)False presentation or any impersonation in presentation of a document;

(d)Abatement of any of the above three offences.

15.In so far as the launching of prosecution under Section 83 of the Act is concerned, it pertains to those offences which are committed under the Registration Act. Therefore, it is relatable to Section 82 of the Act.

16.In the case in hand, the main dispute is with regard to the offence of alleged cheating where the entire sale consideration was not paid and the property was also subsequently dealt with and sold to the subsequent purchasers without receiving any amount as sale consideration. In so far as the offence of cheating is concerned, already a criminal prosecution has been launched in Crime No.21 of 2020 and the police report has been filed and the private respondents have been shown as accused persons. In view of the same, no useful purpose will be served in launching one more prosecution under Section 83 of the Registration Act. In any case, the 3rd respondent has filed a counter affidavit. In the counter affidavit, the 3rd respondent has taken the following stand:

> *"7.With regard to Para 13 to 20 of the affidavit, it is submitted that in Vidyadhar v. Manikrao & Anr.14 the Supreme Court held that the words "price paid or promised or part paid and part promised" indicates that actual payment of the whole of the price at the time of the execution of the Sale Deed is not a sine qua non for completion of the sale. Even if the whole of the price is not paid, but the document is executed, and thereafter registered, the sale would be complete, and the title would pass on to the transferee under the transaction. The non-payment of a part of the sale price would not affect the validity of the sale. Once the title in the property has already passed, even if the balance sale consideration is not paid, the sale could not be invalidated on this ground. The aforesaid Judgment has been followed in the case of Dahiben vs Arvindbhai Kalyanji Bhanusali (Gajra)... on 9 July, 2020 AIR 2020 SUPREME COURT 3310. The Petitioner is having remedy before the Civil Court which will be in a position to adjudicate the issue by examining the evidence of both oral and documentary and therefore the Petitioner cannot invoke the Writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India."*

17.It is therefore clear from the above stand taken by the 3rd respondent that the consideration which has not allegedly been paid does not create a ground for launching a prosecution under Section 83 of the Act and therefore, the registration department has taken a stand that the petitioner cannot seek for such a remedy in the present writ petition.

18.In the considered view of this Court, the stand that has been taken by the 3rd respondent is perfectly in order and the nature of dispute that is sought to be agitated in the present writ petition requires a full fledged trial and appreciation of evidence and the said process cannot be undertaken in a writ petition.

19.In so far as the relief that has been claimed in W.P.No.11286 of 2025, Section 17 deals with a penalty for furnishing a false information before the revenue authorities under the Patta Passbook Act. Section 18 deals with a complaint that can be given for the offences punishable under the Patta Passbook Act. Based on the sale deed executed in favour of the respondents 4 & 5, the patta has been mutated in their name. This mutation of patta has taken place purely based on the sale deed which is yet to be challenged before the competent Civil Court. Just because there are some suspicious circumstances surrounding the execution of the sale deed and the criminal prosecution has been launched and the criminal case is pending, that by itself does not give rise to launching yet another prosecution under the Tamil Nadu Patta Passbook Act.

20.In fine, the relief as sought for by the petitioner in both the writ petitions cannot be granted by this Court. If the petitioner is aggrieved by the registration of the sale deeds, it is left open to the petitioner to approach the competent Civil Court and seek for the appropriate relief independently. The criminal prosecution has already been launched and it is pending before the competent Criminal Court and it is for the private respondents to establish their defense in the said case. This Court cannot parallelly ask the registering authority and the revenue authorities to launch a criminal prosecution against the private respondents based on very same set of facts for which a criminal prosecution has already been launched in Crime No.21 of 2020.

21.It is made clear that any of the findings or observations made in these writ petitions will not stand in the way of the petitioner from prosecuting their case before the competent Civil Court questioning the alleged fraudulent sale deeds and proceeding further in accordance with law.

22.In the result, these writ petitions are disposed of in the above terms. Consequently, the connected miscellaneous petition is closed. No costs.

27.03.2025
(2/2)

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Inspector General of Registration,
Santhome High Road,
Mandaveli, Chennai – 600 004.

2.The District Registrar,
Kancheepuram, Kancheepuram District.

3.The Sub Registrar,
Sunguvarchattiram,
Sriperumpudur Taluk,
Kancheepuram District.

4.The Tahsildar,
Sriperumpudur Taluk,
Kancheepuram District.

<u>N.ANAND VENKATESH, J.</u>

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<u>W.P.Nos.31715 of 2024 & 11286 of 2025</u>

27.03.2025
(2/2)