



W.P(MD)No.12041 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.12041 of 2021

and

W.M.P.(MD).Nos.9487 and 9520 of 2021

W.M.P.(MD).Nos.5368 and 5373 of 2024

Jegadeesh

... Petitioner

vs.

1. The District Registrar,
Registration Department,
Palayamkottai,
Tirunelveli District
2. The Sub Registrar,
Office of Kayathar Sub Registrar,
Kayathar,
Thoothukudi District.

3. Praveen Yadav

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus or any other order or direction in the nature of writ calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1300-7/A3/2019 dated 13.05.2019 and quash the same as illegal, consequently directing the 1st respondent to remove the entries made in Index-II of the 2nd respondent office.



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For Petitioner : Mr.T.Lenin Kumar
For R1 and R2 : Mr.S.Saji Bino
Special Government Pleader

ORDER

The present writ petition has been filed for the issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 13.05.2019 passed in Na.Ka.No.1300-7/A3/2019 by 1st respondent and to direct the 1st respondent to remove the entries made in Index-II of the 2nd respondents office.

2.1 The brief facts as stated in the affidavit are that the properties comprised in Survey No.315/1, 316/2, 278/1 & 272/1 admeasuring 14.35 acres, 23.6 acres, 10.52 acres and 3.47 acres respectively situated at Chettikurichi Village, Kayathar Taluk, Thoothukudi District are belonging to R.S. India Power Ltd., a company incorporated under Indian Companies Act having its registered office at New Delhi and engaged in the business of electricity generation, transmission and distribution. The said Company purchased the said properties from one Sadhna Bio-Oil Pvt. Ltd., through a valid registered sale deed dated 14.08.2012 in Document No.3339/2012 and was in absolute possession and enjoyment of the property without any hindrance.



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2.2. The petitioner further stated that the Company by an authorization letter dated 03.10.2018, appointed one Ravikumar Sharma, as a representative of the Company to sell the lands in Chettikurichi village on behalf of the Company, who in turn appointed the petitioner as the Company's Power Agent vide a Registered General Power of Attorney Deed in Document No. 1710 of 2018 dated 25.10.2018 in respect of the properties in Survey No.315/1, 316/2 & 278/1. Based on the above said power of attorney, the petitioner sold out the properties and entered into agreement of sale with several persons. At this juncture, the 3rd respondent made an objection by way of representation dated 18.03.2019 before the 2nd respondent, wherein it is stated that the 3rd respondent is the Managing Director of the Company and by a sale deed in Document No. 3339/2012, the properties were purchased in favour of the Company. The said Ravikumar Sharma along with others fabricated a resolution in the company's letter pad and based on the resolution, the petitioner was appointed as power agent of the company.

2.3. The 2nd respondent having received the objection forwarded the same to the 1st respondent, the 1st respondent issued summons to the petitioner to appear for the enquiry scheduled on 22.04.2019. The petitioner appeared through an advocate. In the meanwhile, the purchasers who are aggrieved by the said



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notice had filed W.P.(MD) No.11480 of 2019. Pending writ petition, the petitioner and the other purchasers did not appear for enquiry on 29.04.2019. On 30.04.2019 the Court held that the registration department has no power to annul the document but can hold enquiry. Hence on 08.05.2019 the petitioner produced the order and request to conduct enquiry after issuing fresh notice, however the 1st respondent neither issued fresh notice nor conducted enquiry. But the 1st respondent, after 8 months vide proceedings dated 13.05.2019 passed an order stating that there is some spelling mistake in mentioning the name of the Company in the resolution, the resolution did not contain the year, hence the resolution dated 03.10.2018 is fake one, also held based on the said resolution the subsequent registrations are held to be fraudulent. The 1st respondent having held so, directed the 2nd respondent to make entries with regard to the said transaction in Index- II and directed the 3rd respondent to initiate appropriate criminal prosecution against the petitioner and the said Ravikumar Sharma.

2.4. The contention of the petitioner is that the 1st respondent under the pre-text of conducting enquiry under sections 68 and 83 of the Registration Act decided the title over the property and the 1st respondent is not empowered to decide the title of the property. The 1st respondent on receipt of complaint ought to have conducted preliminary enquiry in order to ascertain the veracity of the



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complaint, but the 1st respondent failed to do so. The order do not contain the details about the 3rd respondent, hence the 1st respondent without ascertaining the capacity and designation of the 3rd respondent in the Company, held that the resolution passed by the Company is fake, which suffers from violation of principles of natural justice. Further the impugned order is in violation of the order of this Court, hence prayed to allow the writ petition.

3. The 2nd respondent has filed counter affidavit wherein it is stated that the facts of the case are that M/s. R.S. India Power Limited company had appointed one Ravikumar Sharma, as a representative of the company to sell the lands in Chettikurichi village on behalf of the company and based on the said letter the petitioner was appointed as power agent and based on the same, the petitioner sold the properties and entered into agreement of sale with several persons. On knowing of such sale, the 3rd respondent (as power agent of one Sanjit Roy) submitted representation dated 18.03.2019 before 2nd respondent that 3rd respondent is the Managing Director of the Company and the said properties were fraudulently sold and falsely fabricated the resolution in Company's letter pad and on that the petitioner was fraudulently appointed as power agent of the company. The 2nd respondent issued summons to the petitioner and others for enquiry on various dates i.e. 01.04.2019, 08.04.2019 and 29.04.2019. Whereas the



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petitioner appeared for enquiry on 01.04.2019 and his statements were recorded.

After careful perusal of all relevant documents and hearing the parties, order was passed in Na.Ka.No.1300-7/A3/2019 stating that there is no such power deed, it is a false record created to register forged documents, and all documents registered are fraudulent in nature and 1st respondent directed the 2nd respondent to enter "remarks" in index II as per the circular No.41530/U1/2017 dated 09/04/2018 of Inspector General of Registration. Further it was also stated that the aggrieved party may prefer appeal before Deputy Inspector General of Registration within 60 days. But the petitioner has filed the present writ petition without exhausting the statutory appeal and prayed to dismiss the appeal.

4. After hearing the rival submissions this Court had given its anxious consideration.

5. The Learned Special Government Pleader appearing for the official respondents submitted that the vires of the section 77-A and 77-B was considered by the Hon'ble Division Bench vide judgment dated 02.08.2024 in W.P.No.10291 of 2022 in M.Kathivel and others Vs. Inspector of Registration reported in 2024 (4) CTC 769 and the same was held as ultra vires and struck down by the Court. However the order already passed under the said section 77-A



and 77-B are still valid since the same was passed when the section 77-A and 77-B was in force. For which the Learned Counsel relied on Amazon.Com NV Investment Holdings LLC Vs. Future Retail Limited and others reported in AIR 2021 SC 3723, wherein it is held as under:

*“39. Even otherwise, as has been correctly pointed out by Mr. Subramaniam, no order bears the stamp of invalidity on its forehead and has to be set aside in regular court proceedings as being illegal. This is felicitously stated in several judgments – See [Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group](#), (2011) 3 SCC 363 (at paragraphs 16 to 19), and [Anita International v. Tungabadra Sugar Works Mazdoor Sangh](#), (2016) 9 SCC 44 (at paragraphs 54 and 55). As a matter of fact, in [Tayabbhai M. Bagasarwalla v. Hind Rubber Industries \(P\) Ltd.](#), (1997) 3 SCC 443, **this Court has unequivocally held that even if an order is later set aside as having been passed without jurisdiction, for the period of its subsistence, it is an order that must be obeyed.** This Court held:*

*“15. The next thing to be noticed is that certain interim orders were asked for and were granted by the Civil Court during this period. Would it be right to say that violation of and disobedience to the said orders of injunction is not punishable because it has been found later that the Civil Court had no jurisdiction to entertain the suit. Mr Sorabjee suggests that saying so would be subversive of the Rule of Law and would seriously erode the majesty and dignity of the courts. It would mean, suggests the learned counsel, that it would be open to the defendants-respondents to decide for themselves whether the order was with or without jurisdiction and act upon that belief. This can never be, says the learned counsel. **He further suggests that if any party thinks that an order made by the Civil***

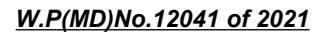
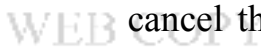


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Court is without jurisdiction or is contrary to law, the appropriate course open to him is to approach that court with that plea and ask for vacating the order. But it is not open to him to flout the said order assuming that the order is without jurisdiction. It is this principle which has been recognised and incorporated in Section 9-A of Civil Procedure Code (inserted by Maharashtra Amendment Act No. 65 of 1977), says Mr Sorabjee.”

After perusing the said order, this Court is of the considered opinion that the same is not applicable for the present facts of the case. Since the said order states that the parties shall not flout the order. But in the present case the said provision itself is put to challenge as ultra vires and declared as ultra vires. Once the authority is not having power to pass such orders, then the order passed without power would become non est in the eyes of law.

6. Now the Court proceeds with the discussion on the question of jurisdiction. Section 68 states about the power of the Registrar to superintend and control Sub Registrars. Section 82 states that false statements, delivering false copies of translations, false personation, abetment and other certain offences are punishable offence liable for penalty and prosecution. Section 83 states the Registering Officer may commence prosecution for any offence committed under the Registration Act.



“77-A. Cancellation of registered documents in certain cases.—(1) The Registrar, either suo moto or on a complaint received from any person, is of the opinion, that registration of a document is made in contravention of section 22-A or section 22-B, shall issue a notice to the executant and all the parties to the document and parties to subsequent documents, if any, and all other persons who, in the opinion of the Registrar, may be affected by the cancellation of the document, to show cause as to why the registration of the document shall not be cancelled. On consideration of reply, if any received therefore, the Registrar may cancel the registration of the document and cause to enter such cancellation in the relevant books and indexes.

(2) The power under sub-section (1) may also be exercised by the Inspector General of Registration.

77-B. Appeal.- (1) Any person aggrieved by an order of the Registrar under sub-section (1) of section 77-A may prefer an appeal to the Inspector General of Registration within thirty days from the date of cancellation of the document and the Inspector General of Registration shall pass an order confirming, modifying or cancelling the order of the Registrar.



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(2) In the case of an order passed by the Inspector General of Registration under sub-section (2) of section 77-A, an appeal shall lie to the State Government within thirty days from the date of the order”

8. Thereafter several petitions were filed before the authorities and the same was entertained and elaborate orders were passed. The aggrieved parties had filed writ petitions to quash the said order passed by the authorities under Section 77-A, 77-B and 22-B. Further writ petitions were filed challenging the vires of Section 77-A, 77-B and 22-B. The batch of writ petitions in W.P.No. 10291 of 2022 batch was heard by the Hon’ble Division Bench and an order dated 02.08.2024 was passed in M.Kathivel and others Vs. Inspector of Registration reported in 2024 (4) CTC 769. In the said judgment the Hon’ble Division Bench had framed the following issues and answered the same in various paragraphs which is extracted hereunder:

“22.Considering the pleadings in all the writ petitions and the points on which reference was made to this Bench, this Court has to consider the following points :

A) Whether Section 77-A and Section 77-B of the Registration Act are liable to be struck down as unconstitutional ? Since constitutional validity is challenged on different grounds, we consider the question of validity on the following heads:



[A1] Whether the State has legislative competence to introduce Section 77-A?

Ans at para: 32. ...Since the objectives stated for introducing the amendment is in tune with the objects of the Registration Act, 1908, and the subject falls in the Concurrent List, we hold that the State has legislative competence to introduce Section 22-A, Section 22-B, Section 77-A, Section 77-B of Registration Act

[A2] Whether Section 77-A is repugnant to any Central Law and hence it is liable to be struck down and hit by Article 254 of Constitution?

Ans at para: 37. ...Hence, we hold that Section 77-A is not repugnant to any other law or any other provisions of Registration Act to attract Article 254 of Constitution. However, while answering this issue, we record and reserve that we will still examine whether the impugned legislative provisions are within the framework or scheme of Registration Act in the later part of this Judgment.

[A3] Whether judicial power can be delegated to Executive Authorities?

Ans at para: 43.To a limited extent, the power can always be entrusted with the executive authority to perform quasi-judicial functions even though a decision by such authority is likely to affect the civil rights of party to the document. Therefore, with a caution that subject to the limitations prescribed under any statute and precedents, it is always open to the legislature to confer on the executive, a quasi-judicial function that is required to administer the particular statute. As observed by Hon'ble Supreme Court, judicial power can be entrusted by legislation to the executive authority. But there are limitations.



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[A4]Whether Section 77-A is liable to be struck down on the ground of excessive delegation with unfettered and uncanalised powers without any statutory guidelines or limitations?

Ans: 64. ...The present Section 22-A now enables Sub Registrar to refuse to register for the reasons stated therein. The Sub Registrar has to literally decide title. But on what basis? Either on the basis of patta or on proof by other documents. What, if anybody has a claim based on Ryotwari Patta or Civil Court's decree. Registration Act is not a substantive law and it was never intended to deal with transactions. This Court is of the view that by permitting the executive to decide such complicated contentious issues enumerated under Section 22-A and Section 22-B of the Registration Act without guidelines or limitations, will lead to chaos, especially when the District Registrar is not competent to pass orders judiciously. In view of the foregoing analysis, this Court holds that Section 77-A confers uncanalised, unbridled and unfettered power to decide jurisdictional issues involving complex issues on law and facts and hence, violative of Article 14 of Constitution.

[A5]Whether the power conferred under Section 77-A is liable to be struck down for being contrary to the fundamental principle that judicial power to decide complicated issues on facts and law resulting in serious legal implications affecting the rights of parties cannot be delegated to executive authorities?

Ans at para: 93. ...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 resulting in serious legal implications affecting the property rights of parties to the transactions cannot be delegated to executive authorities.

[A6] Whether Section 77-A is against the scheme of Registration Act and beyond the object and purpose of Registration Act?

Ans at para: 124. ... 124. Registration Act, unlike the Transfer of Property Act, strikes only at documents and not at transactions. If we consolidate all the judgments of this Court and Hon'ble Supreme Court on the object of Registration Act, the only answer we get is that Registration Act is not a substantive law and it is procedural law dealing with the formalities to be observed while registering various types of documents. However, quite contrary to the understanding of Hon'ble Supreme Court and this Court in several precedents, the State Government has understood the scope of Registration Act to prevent fraud by conferring power to Registering Officer to refuse to register certain documents and to cancel registration of documents if the District Registrar is of the opinion that Registering Officer has registered instruments in contravention of Section 22-A and Section 22-B of the Act.

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126. For the foregoing reasons, this Court is of the opinion that the amendment introducing Section 77-A is beyond the scope, purpose and object of the registration Act and hence unconstitutional



B) Whether Sections 77-A and 77-B can be read down to save them from constitutional invalidity?

Ans at para: 135. We have already seen that Section 77-A is unconstitutional for being violative of [Article 14](#) because of excessive delegation by conferring unfettered and uncanalized power to cancel the registration and for the reasons that the power is beyond the scope, ambit and claim of [Registration Act](#) and that it is contrary to the fundamental principle that judicial power to decide complicated issues cannot be delegated to executive authorities. This Court is unable to read down the provision by substituting conditions or limitations which is not permissible in view of the settled position of law discussed above. In other words, Section 77-A cannot be saved by applying principles of Reading Down

C) Whether Section 22-B is constitutionally valid?

Ans at para: The Division Bench held that section 22-B is different from section 77-B as this power is given to the Registering Officer before registration. Further held that none of the writ petitions 22-A was challenged the same was not decided by the Court. However counter had stated it is challenged, hence the Hon'ble Division Bench held that the same can be dealt with separately.

As far as 22-B(1) is concerned the Hon'ble Division Bench held that the provision enables the registering officer to refuse to register any forged document since the "forged document" is defined under the Act in terms of section 470 IPC. Section 34 of the Act enables the Registering Officer to enquire whether or not such document was executed by the person by whom it purports to have been executed, hence there is scope for enquiry to identify the person executing the document, if finds the document is not executed by the said person, the registrar can refuse registration. A forged



document even without the aid of section 22-B cannot be registered, hence the object of the section 22-B cannot be doubted, therefore, the section 22-B cannot be held as unconstitutional. However, if there is dispute and the dispute is bonafide, involving contentious questions of law and facts, the registering officer has to relegate the parties to the Civil Courts.

139. ... In view of the same, this Court is of the view that provisions under Section 22-A and Section 22-B **can be read down and the provisions can be held valid only if the jurisdictional issues can be answered on admitted facts or by a declaration of Civil Court or Criminal Court in the appropriate proceedings subject to further appeal as the case may be.** Section 22-B enables the Registering Officer to refuse to register any document which is forged. The question whether a document is forged is a jurisdictional issue. This Court has already seen that such issue cannot be left within the exclusive jurisdiction of the Registering Officer. Therefore, the issue whether the document is a forged one either should be evident from the admitted facts or on the basis of declaration of Civil Court.

140. Whenever a question whether a document is forged or not is pending before a Civil Court or Criminal Court, the Sub Registrar cannot decide the same for the purpose of accepting or refusing to register the document. If the Sub Registrar has reasons to believe that the issue can be decided on the basis of admission or documents which are admitted and enquiry should be conducted by the Sub Registrar by issuing notice to all who are interested and the decision of the Sub Registrar is always subject to judicial scrutiny by this Court either under [Article 226](#) of the Constitution of India or by a suit if there are complex issues involving disputed questions of fact and law.



145. Since we are not deciding the constitutional validity of sub- sections [2], [3] and [4] of Section 22-B as no counsel has argued, liberty is given to any one of the writ petitioners or any individual to challenge Sub-sections [2], [3] and [4] of Section 22-B in separate proceedings.

D) Whether the amendment introducing Section 77-A is prospective or retrospective?

Ans at para: 166. The Hon'ble Division Bench held the section 77-A is prospective and not retrospective.

E) Whether the recitals in a document presented for registration, can be examined to determine that such document was fraudulently executed or registered?

F) Whether a document in which the recitals alone are questioned can be considered only as voidable which would normally necessitate the filing of the suit to set aside the particular document or whether even those documents can be cancelled by the Sub Registrar under [Section 77A](#) of the Registration Act;

G) Whether exercise of power under Section 77A must be restricted to registration of documents in contravention to Section 22-A or 22-B of Registration Act, 1908 alone?

Ans at para: 167. This Court has already held that Section 77-A is unconstitutional and liable to be 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 it is not necessary for us to go into those issues."



9. From the above it is evident that the Hon'ble Division Bench has held that the sections 77-A and 77-B are ultra vires and the same was struck down. And also held that section 77-A is only prospective in nature. Further held without section 77-A, the power granted under section 22-B is sufficient to determine fraudulent documents. But the said section 22-B ought to be exercised at the time of registration. Furthermore held that that the Registering Officer was not granted any power to determine the title of the parties. The power is restricted to scrutinize fraud or impersonation based on the admitted facts or if the same is declared by the competent Civil or Criminal Courts. The judgment makes it clear that the registering authorities cannot determine the title of the parties which is under exclusive domain of the judiciary and the relevant paragraph is extracted hereunder:

“139.In all these cases, the jurisdictional issues like whether the subject matter of document belongs to State Government or Local Authority or CMDA or religious institution or Wakf or Boodhan Yajna Board or document is forged, are often issues that would be effectively adjudicated only by the Civil Court. This Court in few judgments has already held that such complex issues relating to title cannot be decided by the Sub Registrar and it should be decided only by the Civil Court. In view of the same, this Court is of the view that provisions under Section 22-A and Section 22-B can be read down and the provisions can be held valid only if the jurisdictional issues can be answered on admitted facts or by a declaration of Civil Court or Criminal Court in the appropriate proceedings subject to further appeal as the case may be. Section 22-B



*enables the Registering Officer to refuse to register any document which is forged. The question whether a document is forged is a jurisdictional issue. This Court has already seen that such issue cannot be left within the exclusive jurisdiction of the Registering Officer. **Therefore, the issue whether the document is a forged one either should be evident from the admitted facts or on the basis of declaration of Civil Court.***

*143. For the purpose of exercising his power to refuse to register a document, the Sub Registrar has to decide whether the subject matter of document presented for registration is the property of State or any religious institution or belongs to Wakf or satisfy the requirements of other categories of instruments under Section 22-A or Section -22-B of the Act. **However, normally the issue that arises for consideration even while presenting the document for registration is one regarding title. However, no machinery is provided under the Act or the guidelines prescribed under the Act to the Sub Registrar to adjudicate the jurisdictional issues or facts. In the absence of specific guidelines framed under the Act, it is too much to expect from the registering officer or the District Registrar to decide such issues judiciously. The importance of an independent and efficient judicial system has been recognised as part of basic structure of our Constitution.***

From the above it is clear that forgery / fraud either should be evident from the admitted facts or on the basis of declaration of Civil Court, then alone the registering authority is having power to refuse registration. Then also the registering officer cannot declare the act of fraud / forgery but only can **refuse**



registration. The act of fraud / forgery **ought to be declared** by the competent Civil or Criminal Courts alone.

10. While discussing the counter filed by the official respondents the Hon'ble Division Bench vide order dated 06.08.2024 had inserted paras 126a to 126d in the order, wherein it is held that under Article 226 the document may be annulled by High Court and the relevant portion is extracted hereunder:

“126b. The first reason given in the counter as stated above, itself shows that the impugned legislation is an attempt to overreach judiciary. If it is true that Section 22-A is not in operation in view of stay in another Writ Petition, the impugned legislation is unconstitutional as the object is to circumvent the order of Court apart from being against settled principles of law and Public policy. After collecting nearly 10% of consideration towards Registration charges and Stamp Duty, cancelling registration, unilaterally at the instance of a Third party cannot be justified on the second ground. The points raised in (C), (D) & (E) are again inappropriate in view of effective remedy before Civil Court or before this Court under Article 226 and hence, exhibit colourable exercise of power. In exceptional cases, aggrieved person can file a Petition before the Court under Article 226 of Constitution, if the Registrar has either failed to follow the procedure nor has exceeded his jurisdiction. Even fraudulent transaction can be annulled in a Writ Petition under Article 226 of the Constitution if the facts establishing forgery impersonation or fraud is not disputed or can be deduced based on admitted documents.



Other cases where there are serious disputed questions are involved, parties can approach the Civil Court for appropriate relief.”

Based on the above finding, therefore it can be safely held that in exceptional cases or where the forgery can be deduced based on admitted documents then the Writ Court can be annulled.

11. Based on the above settled position of law as rendered by the Hon'ble Division Bench in M.Kathirvel case, the present case ought to be remitted back for reconsideration on the basis of the above observation. It is strictly directed to scrutinize forgery / fraud whether evident from the admitted facts or on the basis of declaration of Civil Court. While doing so the registering officer shall not determine the title of the parties. Therefore, the impugned orders are set aside and the respondents are directed to reconsider the case in the light of the above observations within a period of 12 weeks from the date of receipt of the copy of the order.

12. However, if the parties intended to approach Civil Court to decide their rights are at liberty to approach Civil Court straight away without further approaching the registering officer. The parties shall approach within a period of 12 weeks from the date of receipt of the copy of the order and during the



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said 12 weeks further registration of any deeds shall be kept in abeyance. After the lapse of said 12 weeks the registering authority shall consider the documents for further registering as per law.

13. For the reasons stated above, the Writ Petition is disposed of to the extent as stated supra. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

08.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

TMG

To:

1. The District Registrar,
Registration Department,
Palayamkottai,
Tirunelveli District
2. The Sub Registrar,
Office of Kayathar Sub Registrar,
Kayathar,
Thoothukudi District.

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**ORDER MADE IN
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DATED :08.08.2025