



W.P.(MD)No.20624 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P.(MD)No.20624 of 2023
and
W.M.P.(MD)Nos.17046 and 17047 of 2023**

1. P.Abraham
2. Mohammed Nagutha Maraicayar
3. Mohamed Naina
4. J.Abdul Rahim
5. K.H.Kaleel Ahamed

... Petitioners

versus

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
100, Santhome Highways,
Pattinapakkam,
Chennai.
2. The District Registrar (Administration)
Thiruvarur District,
Thiruvarur.
3. The District Registrar (Administration)
Tenkasi District,
Tenkasi.



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4. The Sub Registrar,
O/o. The Sub Registrar,
Ottapidaram, Thoothukudi District,
Thoothukudi.

5. The Sub Registrar,
O/o. The Sub Registrar,
Alankulam, Tenkasi District,
Tenkasi.

6. The Sub Registrar,
O/o. The Sub Registrar,
Kovilpatti, Thoothukudi District,
Thoothukudi.

7. P.Ganesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of writ of certiorari, to call for the records relating to the order passed by the 2nd respondent in his proceedings in No.81/A3/2023 dated 03.08.2023 and quash the same as illegal.

For Petitioners	:	Mr.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates
For R1 to R6	:	Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.M.Sarangan, Additional Government Pleader
For R7	:	Mr.AR.L.Sundaresan, Senior Counsel for Mr.AR.Karthik Lakshmanan



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ORDER

P.VELMURUGAN, J.,

This writ petition has been filed to quash the order passed by the 2nd respondent in his proceedings in No.81/A3/2023 dated 03.08.2023, in and by which, the 2nd respondent ordered for cancellation of registered documents.

2. The brief facts of the case are that the 7th respondent along with his brother P.J.Mahesh Raja, his father S.C.Pandian and one G.Eshwanth have constituted a Partnership Firm in the month of May 2007 under the name and style of PGM Developers to jointly carry on the real estate business. After the death of G.Eshwanth, the Partnership Firm was managed by three partners. The Partnership Firm purchased 303 plots to an extent of 5 ½ lakhs sq. ft. situate at S.Nos.105/1, 80/1, 80/3, 105/2, 107/4, 112/1, 115/1, 114/2, 109/2E, 107/3, 116, 117/1, 111, 110, 115/2, 114/3B, 117/2, 117/4, 117/8, 117/6 and 117/7 in KTR Satellite Township, Anaivadapathy Village, Alangudi, Kodaivasal Taluk, Thiruvarur District, vide sale deeds dated 26.08.2008 as Doc.Nos.4006 to 4021 of 2008. Thereafter, the Partnership Firm executed an authorization letter in favour



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of one Muzafar Ahamed for alienating the properties, who in turn executed a General Power of Attorney in favour of the first petitioner to deal with the said properties, vide registered Doc.No.2439 of 2015. The father of the 7th respondent had entered into a sale agreement dated 27.05.2015 with the first petitioner for purchasing certain properties belonging to him. In furtherance thereof, the properties belonging to the first petitioner were conveyed in favour of the Partnership Firm vide sale deed dated 09.11.2015 registered as Doc.No.2451 of 2015. The said sale deed was executed by the said Muzafar Ahamed, who had represented the firm and the father of the 7th respondent. Pursuant to the said sale deed, the lands have also been utilized by the 7th respondent and the Partnership Firm. Pursuant to the same, the first petitioner have entered into sale agreements dated 27.11.2015 in favour of the second petitioner vide Doc.No.2608 of 2015 in respect of 225 plots from the above properties. He also executed sale deeds in respect of 225 plots, vide Doc.Nos.5300 to 5302 of 2016 on the file of the 5th respondent. Further, the said Muzafar Ahamed has also executed a sale deed for the remaining 77 plots, vide Doc.No.5303 of 2016



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3. While so, the partners of the Firm including the 7th respondent preferred a complaint before the 1st respondent and the same was forwarded to the District Registrar, Thoothukudi for enquiry and a criminal complaint was also preferred. In the said complaint, a charge sheet was filed and the same was taken on file and the same is pending on the file of the Judicial Magistrate Court, Thiruvavur. In view of the same, the sale deeds executed by the first petitioner were kept pending for verification of value of the property. Therefore, the first petitioner filed a writ petition in W.P.(MD)No.21499 of 2016 seeking a direction to the 5th respondent to register the documents and release the same. The said writ petition was disposed of by this Court with a direction to the 5th respondent to pass suitable orders within six weeks. Pursuant to the same, the 5th respondent, vide his order dated 07.12.2016 refused to register the documents. As against the same, an appeal was preferred before the 3rd respondent/District Registrar and after conducting a detailed enquiry, the 3rd respondent passed an order on 15.12.2016, under Section 72 of the Tamil Nadu Registration Act, 1908, directing the 5th respondent/Sub Registrar to register and release the document after collecting the proper stamp duty and registration fee.



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4. While so, the 7th respondent has chosen to cancel the power of attorney dated 06.11.2015 vide document dated 17.10.2016. The 7th respondent has taken a stand that the authorisation letter given to the said Muzafar Ahamed is a forged one and also the power of attorney, executed by the said Muzafar Ahamed on behalf of the father of the 7th respondent. The 7th respondent and other partners of the Firm also filed a writ petition in W.P.(MD)No.1202 of 2017 challenging the order passed by the 3rd respondent dated 15.12.2016. The said writ petition was dismissed by this Court by order dated 09.08.2019, refusing to cancel the registered documents. As against the said order, the petitioners therein including the 7th respondent herein filed an appeal in W.A.(MD)No.926 of 2019, wherein, the Division Bench of this Court has granted an order of interim injunction for a period of four weeks. In the meanwhile, the petitioners 2 to 5 have executed a power of attorney in favour of the first petitioner registered as Doc.Nos.2047, 2048, 2166 and 2167 of 2019 on the file of the 6th respondent.

5. The 7th respondent has preferred a complaint dated 09.01.2023 under Section 77A of the Act for cancellation of documents registered as Doc.No.2608 of 2015 on the file of the 4th respondent, Doc.Nos.5300 to 5303 of 2016 on the



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file of the 6th respondent, Doc.Nos.2047 and 2048 of 2019 and Doc.Nos.2166 and 2167 of 2019 on the file of the 6th respondent. Pursuant to the same, the first petitioner was called for an enquiry and he submitted a detailed reply on 28.03.2023 and 24.04.2023. Further, in respect of the very same issue, a suit has been filed and the same is pending in O.S.No.25 of 2017 on the file of the District Munsif Court, Tiruvarur. However, without considering the same, the 2nd respondent has passed the impugned order dated 03.08.2023 cancelling the above nine (9) documents.

6. The learned Senior Counsel appearing for the petitioners submits that the 2nd respondent ought to have seen that Section 77A of the Act came into effect only on 16.08.2022 and the same is only prospective in nature and as such, the same cannot be invoked for cancellation of documents executed prior to the Registration (Tamil Nadu Second Amendment) Act, 2021 came into force. Therefore, the impugned order passed by the 2nd respondent, cancelling the documents executed in the year 2015, 2016 and 2019, is not sustainable in law.

7. The learned Senior Counsel further submits that the jurisdiction of the Registrar of the District is confined only within the jurisdictional limits of that district as prescribed by the State Government under Section 5 of the Act.



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Though the petition mentioned properties are situated at Tiruvarur, the documents cancelled by the 2nd respondent vide the impugned order have been registered outside the territorial limits of the Tiruvarur District, i.e. on the file of the respondents 4 to 6 and as such, the 2nd respondent has no jurisdiction to cancel those document. Therefore, the impugned order is liable to be set aside for want of jurisdiction.

8. The learned Senior Counsel further submits that the issues involved in this case are serious disputed questions of title and authenticity of the signature affixed by the father of the 7th respondent in the authorization letter given to Muzafar Ahamed, which are triable in nature and the same has to be decided only by the competent Civil Court. Further, in respect of the very same issue, a suit has already been filed and the same is pending in O.S.No.25 of 2017 on the file of the District Munsif Court, Tiruvarur. But, without considering the same, the second respondent has passed the impugned order cancelling the documents, which is not sustainable in law.

9. The learned Additional Advocate General submits that as per Circular in Lr.No.33760/U1/2022, dated 27.09.2022 issued by the Inspector General of



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Registration, if any forged document is registered outside the jurisdiction of the concerned District Registrar under Section 28 of the Registration Act, the jurisdictional District Registrar can enquire and pass orders. Therefore, the second respondent has jurisdiction to pass the impugned order.

10. However, the learned Additional Advocate General fairly submits that the Division Bench of this Court, in a batch of writ petitions in W.P.No.10291 of 2022, struck down Section 77A of the Registration Act holding that it is unconstitutional. Further, since the issues involved in this case are serious disputed questions of title and authenticity of the signature affixed by the father of the 7th respondent in the authorization letter given to Muzafar Ahamed, the same have to be decided by the competent Civil Court. Therefore, the parties have to workout their remedy before the competent Civil Court.

11. Heard both sides and perused the materials available on record.

12. Section 77A of the Registration Act, 1908, is the only provision which enabled the second respondent to cancel the registered documents on the ground of fraud. Based on the complaint given by the 7th respondent, the second



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respondent, by invoking the provision of Section 77A of the Registration Act, passed the impugned order cancelling the registered documents. Challenging the same, the present writ petition has been filed.

13. The Hon'ble Division Bench of this Court, in a batch of writ petitions in W.P.No.10291 of 2022, etc., (*M.Kathirvel and others vs. The Inspector General of Registration Department of Registration, Chennai and others*) (*reported in CDJ 2024 MHC 4503*), held that Section 77A introduced by amendment in 2022 is prospective and it cannot have retrospective application and therefore, Section 77A is liable to be struck down and accordingly, it is struck down.

14. Further, in this case, the documents, which have been cancelled by way of impugned order, have been registered in the year 2015, 2016 and 2019. Whereas Section 77A of the Registration Act was introduced by way of amendment only in the year 2022. Further, Section 77A of the Registration Act gives only prospective effect. Therefore, the second respondent has no power to cancel the registered documents.

15. It is well settled proposition of law that when there are disputed



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question of facts involved in a case, the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India. The issues involved in this case are serious disputed questions of title and authenticity of the signature affixed by the father of the 7th respondent in the authorization letter given to Muzafar Ahamed. Therefore, the Writ Court cannot go into the disputed facts involved in this case.

16. Further, in respect of the very same issue, a suit in O.S.No.25 of 2017 is pending on the file of the District Munsif Court, Tiruvarur. However, the second respondent, without considering the same, has cancelled the registered documents of the year 2015, 2016 and 2019. Therefore, the impugned order is liable to be set aside.

17. Accordingly, this writ petition is allowed and the order passed by the 2nd respondent in his proceedings in No.81/A3/2023 dated 03.08.2023 is hereby set aside . No costs. Consequently, connected miscellaneous petitions are closed.

[P.V.,J.] [K.K.R.K.,J.]
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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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O/o. The Sub Registrar,
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