

W.P.(MD)Nos.3011 of 2026 and 31834 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Orders reserved on : 28.04.2026

Orders pronounced on : **01.06.2026**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)Nos.3011 of 2026 and 31834 of 2025
and W.M.P.(MD)Nos.25026, 25029 and 27598 of 2025

In W.P.(MD).No.3011 of 2026 :-

S.Lilavathi .. Petitioner

Versus

1. The Sub-Registrar,
Papanasam – 614 205.

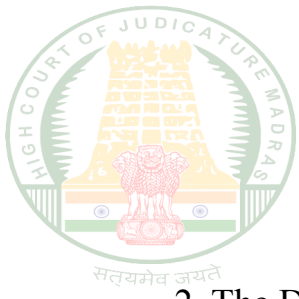
2. Ganesan .. Respondents

In W.P.(MD).No.31834 of 2025 :-

G.Ganesan .. Petitioner

Versus

1. The Inspector General of Registration,
O/o.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai – 600 028.



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2. The District Registrar (Administration),
O/o.The District Registrar,
Kumbakonam, Thanjavur District.

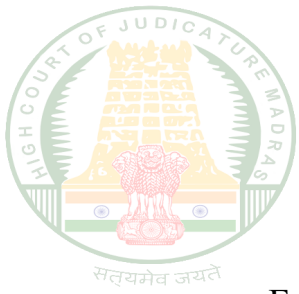
3. The Sub-Registrar,
Papanasam Registration Office,
Thanjavur District.

4. Leelavathi .. Respondents

Prayer in W.P.(MD).No.3011 of 2026 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to declare as invalid or cancel the registration of General Power of Attorney No.1/1996 and sale deeds 854/2014, 1718/2015 and 913/2019 and in respect of the properties 0.31.00 hectares in S.No.705/5, 0.02.50 hectares in S.No.705/5B1 and 0.95.00 hectares in S.No.708/1A2 and 0.12.00 hectares in S.No.709/3 of Melattur 3rd Sethi Village, Papanasam Taluk, Thanjavur District as per the provisions of the law, as illegal.

Prayer in W.P.No.31834 of 2025 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the order in Pa.Mu.No.1265/A-I/2021, dated 20.09.2023 passed by the 2nd respondent and quash the same as illegal and consequently directing the 3rd respondent to remove the recording of the said order, dated 20.09.2023 passed by the 2nd respondent in the encumbrance certificate within the time as stipulated by this Court.

In W.P.(MD).No.3011 of 2026 :-



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For Petitioner : Mrs.S.Lilavathi (Party-in-person)

For Respondents : Mr.A.Baskaran,
Additional Government Pleader, for R1

: Ms.H.Jasima Yasmin,
for M/s.Ajmal Associates, for R2

In W.P.(MD).No.31834 of 2025 :-

For Petitioner : Ms.H.Jasima Yasmin,
for M/s.Ajmal Associates

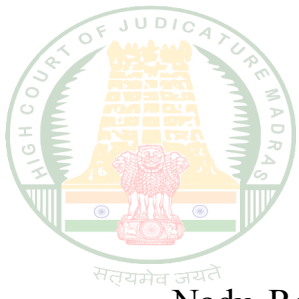
For Respondents : Mr.A.Baskaran,
Additional Government Pleader,
for RR-1 to 3

: Mrs.S.Lilavathi (Party-in-person), for R4

COMMON ORDER

These two Writ Petitions are connected with each other and, as such, are disposed of by this common order.

2. W.P.(MD).No.31834 of 2025 is filed by one *Ganesan*. The Writ Petition challenges the order dated 20.09.2023 passed by the District Registrar (Administration), Kumbakonam. The said order directs the making of an endorsement that Doct.No.854 of 2014, Doct.No.1718 of 2015 and Doct.No.913 of 2019 be declared as fraudulent documents as per Section 77-A of the Tamil



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Nadu Registration Act, 1908 (hereinafter referred to as 'the Act'), and forbears registration of any further document claiming title to these documents.

3. W.P.(MD).No.3011 of 2026 is filed praying for a declaration that the registration of the General Power of Attorney No.1 of 1996 and the Sale Deed Nos.854 of 2014, 1718 of 2015 and 913 of 2019 in respect of the properties in S.No.705/5, 705/5B1, 708/1A2 and 709/3, Melathur Third Sethi village, Papanasam taluk, Thanjavur district, be invalid or cancelled as illegal, and for further or other orders.

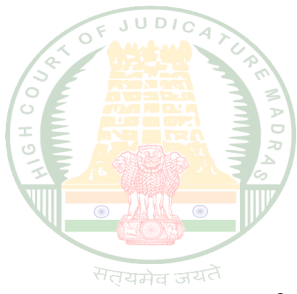
4. The brief facts leading to the filing of the present Writ Petitions are that the properties in question originally belonged to the father of *Lilavathi*, namely, *Sami Ayyanayakavadiyar*. It is stated that the said person died in the year 1971, leaving behind his wife, *Chellammal*, two sons, namely, *Pichai* and *Krishnamoorthy*, and two daughters, namely, the petitioner, *Lilavathi*, and one *Rajalakshmi*. However, after the death of the said *Sami Ayyanayakavadiyar*, it is seen that the patta was mutated in the name of his wife *Chellammal*, and his two sons, *Pichai* and *Krishnamoorthy*, leaving out the names of the daughters.



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5. It is seen that the said *Chellammal*, wife of *Sami Ayyanayakavadiyar*, died on 08.08.1993. Thereafter, on 03.01.1996, the brothers of *Lilavathi*, namely, the said *Pichai* and *Krishnamoorthy*, executed a Power of Attorney, dated 03.01.1996, in favour of one *Siddharthan*, which was registered as Doct.No.4 of 1996. The said *Siddharthan*, in the year 2014, by a sale deed dated 19.06.2014, sold the above-mentioned properties in favour of one *A.Kamaraj* for a total sale consideration of Rs.3,83,000/-. The sale deed stated that the properties in question were purchased by the said *Sami Ayyanayakavadiyar* in 1954 and 1960 by two registered sale deeds, and that after his death, the suit property vested in the names of his legal heirs. Since his wife, *Chellammal*, also died on 08.08.1993, the property was inherited by the said *Pichai* and *Krishnamoorthy*, and was sold in favour of one *A.Kamaraj*. Thereafter, by a further sale deed dated 27.01.2015, registered as Doct.No.1718 of 2015, the said *Kamaraj* sold the property in favour of *M. Krishnaveni*. The said *Krishnaveni*, in turn, sold the property in favour of *G.Ganesan* by a document dated 02.05.2019, registered as Doct.No.913 of 2019.



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6. At this stage, after the amendment to the Act with reference to the State of Tamil Nadu by incorporating Section 77-A of the Act, the petitioner, *Lilavathi*, presented a petition dated 24.12.2020 before the District Registrar. After enquiry, the District Registrar found that the property originally belonged to *Sami Ayyanayakavadiyar*. While registering the first document in Doct.No.854 of 2014, no legal heirship certificate was produced or verified. On the other hand, the legal heirship certificate issued to *Chellammal* shows that, apart from the two sons, the couple had two daughters. Therefore, Doct.No.854 of 2014 and the subsequent document, having been registered without consideration of the above, were ordered to be cancelled, and an appropriate endorsement as per Section 77-A of the Act was ordered to be made by creating a link page.

7. Aggrieved thereby, the holder of the property, as per Doct.No.913 of 2019, namely, *G.Ganesan*, had filed W.P.(MD).No.14979 of 2025. In the said Writ Petition, notice was ordered to the private respondent, and the matter was pending. Pending the said Writ Petition, the said *Ganesan* had filed W.P.(MD).No.31834 of 2025 through a different counsel, suppressing the filing of the earlier Writ Petition. The said *Lilavathi* filed W.P.(MD).No.3011 of 2026 for the

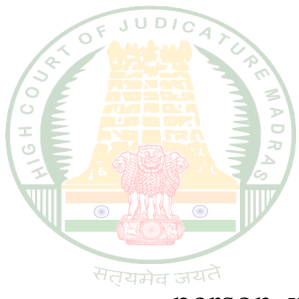


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prayers mentioned above, produced the documents, and contended that the second Writ Petition filed by *Ganesan*, with reference to the same cause of action, is not maintainable.

8. At this stage, *Ganesan* had instructed the Counsel appearing in W.P. (MD).No.14979 of 2025 to withdraw the said Writ Petition, and accordingly, on 16.12.2025, the said Writ Petition was dismissed as withdrawn. It is pertinent to state that while withdrawing the Writ Petition, no liberty was obtained to pursue the remedies in respect of the same cause of action in the other Writ Petition filed by him, nor was it brought to the notice of that Court that yet another Writ Petition was filed. Thereafter, these Writ Petitions are heard.

9. *Ms.S.Lilavathi*, the petitioner/party-in-person in W.P.(MD).No.3011 of 2026, would submit that the second Writ Petition, in respect of the same cause of action and challenging the order of the District Registrar, is not maintainable in the absence of liberty to pursue it. Relying upon the order of this Court dated 17.06.2021 in *S.R.M. Packiri Rajan Vs. Inspector General of Registration, Registration Department and Ors.*, in *W.P.(MD).No.10177 of 2021*, the party-in-

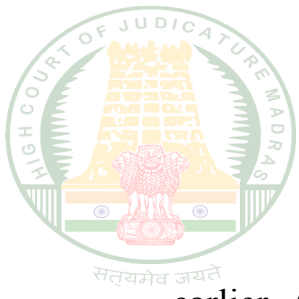


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person would submit that, in extraordinary circumstances, this Court itself can declare those deeds invalid again. Therefore, she has filed the Writ Petition in W.P.(MD).No.3011 of 2026 and prays that the same may be allowed.

10. Per *contra*, *Ms.H. Jasima Yasmin*, learned Counsel for the petitioner in W.P.(MD).No.31834 of 2025, would submit that the Writ Petition, filed by *Lilavathi*, to declare Power of Attorney and the subsequent sale deeds etc., as illegal, cannot be maintained before this Court as the same involves the question of title and no Writ Petition would lie against private individuals excluding the Power of Attorney Agents. The learned Counsel would submit that in extraordinary cases, notwithstanding the fact that liberty was not granted in the first Writ Petition, the second Writ Petition can be entertained.

11. The learned Counsel would plead that the petitioner *Ganesan* is less educated and, after filing the first Writ Petition and seeing that nothing was happening, he filed the second Writ Petition without informing the second Counsel, who was briefed, when he filed the second Writ Petition. Upon coming to know of the first Writ Petition, he was immediately instructed to approach the



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earlier Counsel and withdraw the other Writ Petition. However, while withdrawing, specific liberty was not obtained, which is only an error, and substantially, the relief prayed for by *Ganesan* is covered by the judgment of the Hon'ble Division Bench of this Court in *M.Kathirvel Vs. Inspector General of Registration and Ors.*¹. This Court has not only struck down the constitutional validity of Section 77-A of the Act but has also expressly held that the circulars issued thereunder and the orders passed cannot hold good, and accordingly, the order passed by the District Registrar in exercise of the power under Section 77-A of the Act is liable to be quashed.

12. The learned Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in *Ramesh Chandra Sankla and Ors. Vs. Vikram Cement and Ors.*². If, on the facts of the case, the withdrawal of the earlier petition does not amount to abandonment of the claim, the second Writ Petition will not be against public policy merely because it starts a second round of litigation. Therefore, in such cases, notwithstanding the liberty not being expressly granted, the relief should be granted to the petitioner. The learned

1 (2024) 4 LW 110

2 (2008) 14 SCC 58



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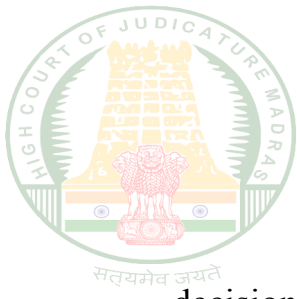
Counsel would further rely upon the judgment of the Hon'ble Supreme Court of India in *Sarva Shramik Sanghatana (KV), Mumbai Vs. State of Maharashtra and Ors.*³, under which the judgment of the Hon'ble Supreme Court of India in *Sarbuja Transport Service Vs. State Transport Appellate Tribunal, M.P., Gwalior and Ors.*⁴, was considered and held that it will be applicable in cases where the withdrawal was made to engage in bench hunting or for some other malafide purpose, and would submit that the second Writ Petition should be entertained by this court.

13. I have considered the rival submissions on both sides and perused the material records of the case.

14. As far as the Writ Petition in W.P.(MD).No.3011 of 2026 is concerned, on a perusal of the prayer itself, it is clear that the prayers are made as if it is before the Civil Court impugning the Power of Attorney and the subsequent sale deeds. For such reliefs, the petitioner would be entitled to approach the jurisdictional Civil Court, and the Writ Petition is not maintainable. As far as the

3 (2008) 1 SCC 494

4 (1987) 1 SCC 5



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decision in ***S.R.M.Packiri Rajan***'s case (stated *supra*) is concerned, it must be noted that the same was rendered on the footing that it was an extraordinary case, and that Section 77-A of the Act was also in the statute books as on that date. When Section 77-A of the Act has been struck down, and even if the document executed is fraudulent or was executed in respect of the petitioner's share in the property, it is for the petitioner to approach the competent Civil Court for appropriate relief or to deal with the property in the manner known to law. In this regard, the judgment of the Hon'ble Supreme Court of India in ***K.Gopi Vs. Sub-Registrar and Ors.***⁵, more specifically, paragraph No.19, is relied upon, and the same is extracted hereunder for ready reference:-

“19. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.”

(Emphasis supplied)

In view thereof, keeping open the liberty of the petitioner, *Lilavathi*, to approach the competent Civil Court, with reference to her 1/4th share, W.P.(MD). No.3011 of 2026 is dismissed as not maintainable.

5 (2026) 2 SCC 696

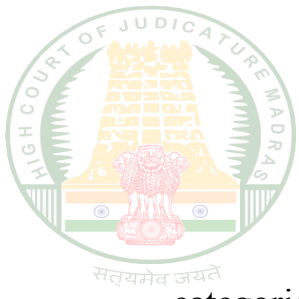


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15. As far as the Writ Petition in W.P.(MD).No.31834 of 2025 filed by *Ganesan* is concerned, normally, the prayer made would have been granted in view of the judgment in *Kathirvel* (cited *supra*). However, it must be noted that for the very same cause of action, he had earlier filed W.P.(MD).No.14979 of 2025, which was dismissed as withdrawn by the order dated 16.12.2025. On a perusal of the said order, it is clear that no liberty whatsoever was granted by the Court. The legal position in respect thereof has been laid down by the judgment of the Hon'ble Supreme Court of India in *Sarbuja Transport Service*'s case (cited *supra*), under which it has been held that, not on the principles of *res judicata*, but by adopting the principles of Order XXIII R 1 on the ground of public policy, the second Writ Petition under Article 226 of the Constitution of India is maintainable.

16. The learned Counsel would submit that the rule should be applied only in cases of abandonment of claim and whether there is malafide intention of bench hunting. Firstly, the law laid down by the judgment of the Hon'ble Supreme Court of India in *Sarbuja Transport Service*'s case (cited *supra*) is

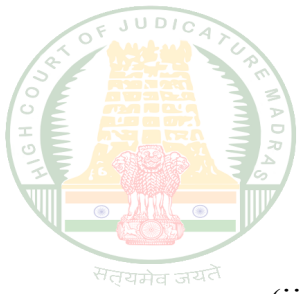


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category and clear that when no liberty is obtained, it would amount to abandonment of the claim, and as such, the second Writ Petition under Article 226 of the Constitution of India is not maintainable. By considering the dictum of the Hon'ble Supreme Court of India in *Ramesh Chandra Sankla's* case (cited *supra*), the following has to be seen:

(i) There is no abandonment of the claim or a start of the second round of proceedings after the first round is over;

(ii) The petitioner is not as innocent as he is portrayed. He entrusted the brief to the first counsel, signed the papers, and knew that the case was pending. When he came to the second counsel, he suppressed the filing of the first case. It came to the knowledge of the second counsel only after perusing *Lilavathi's* counter. When she advised the petitioner to withdraw the earlier Writ Petition, again, the petitioner did not disclose the filing of the second Writ Petition to the first counsel and seek liberty. It must be seen that there was no interim order in the first writ petition, while the same was granted in the second Writ Petition. In this case, apart from the non-obtaining of liberty, there is suppression of facts.



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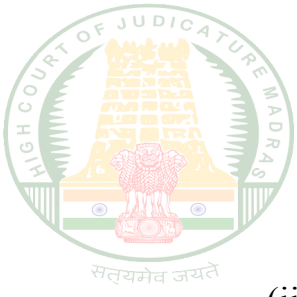
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(iii) On merits, a proper perusal of the averments in the sale deed of 2014 shows that the properties are self-acquired by *Sami Ayyanayakavadiyar*, and the patta was also in the name of his wife, *Chellammal*. Admittedly, when there are four legal heirs and two of them have not joined the execution, the petitioner is on a weaker footing seeking equity. At the same time, the transactions would be valid in respect of the 2/4th share of the brothers and 1/4th of the other sister, since she has not chosen to claim the same, and the documents are cancelled in entirety by the impugned order.

17. Therefore, considering the equitable plea made by the Learned Counsel for the petitioner, the relief can be moulded, in view of the extraordinary factual situation in the case on hand. The Writ petition is disposed of on the following terms:

(i) The impugned order in Pa.Mu.No.1265/A-I/2021, dated 20.09.2023 shall stand set aside;

(ii) However, there shall be an endorsement in the encumbrance that 'Liberty has been given to Lilavathy to approach the Civil Court in respect of her 1/4th share by the order passed in W.P.(MD)No.3011 of 2026;



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(iii) There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

01.06.2026
(2/2)

Neutral Citation : yes
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To

1. The Sub-Registrar,
Papanasam – 614 205.
2. The Inspector General of Registration,
O/o.The Inspector General of Registration,
No.100, Santhome High Road,
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Chennai – 600 028.
3. The District Registrar (Administration),
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