

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12629 of 2016

Sengoda Gounder

... Petitioner

Vs.

1.The District Registrar (Admin)
Office of the District Registrar,
Trichy Main Road, Namakkal District.

2.The District Registrar (Admin)
Office of the District Registrar,
Chennimalai Road, Rangampalayam,
Erode District 638 009.

3. The Sub Registrar,
Komarapalayam Sub Registrar Office,
Komarapalayam, Namakkal District.

4.The Sub Registrar,
Pallipalayam Sub Registrar Office,
Pallipalayam, Namakkal District.

5.Joint Sub Registrar No.1,
Erode District Registrar Office,
Erode, Erode District.

6.Duraisamy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 2nd respondent to cancel the Power of Attorney deed Doc.No.202 of 1999 dated 16.3.1999 on the file of 5th respondent on the basis of 2nd respondent's enquiry in Na.Ka.No.4848/AA1/2012 dated 29.1.2016 also by considering petitioner's representation dated 15.03.2016.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.K.Thangapandi
Govt. Advocate

ORDER

The petitioner has come forward with this Writ Petition seeking for issuance of a mandamus upon the 2nd respondent to cancel the Power of Attorney deed Doc.No.202 of 1999 dated 16.3.1999 on the file the of 5th respondent on the basis of 2nd respondent's enquiry in Na.Ka.No.4848/AA1/2012 dated 29.1.2016, by considering petitioner's representation dated 15.03.2016.

2. According to the petitioner, he is a senior citizen, aged 77 years and he is the owner of the properties situate in S.No.461/3, measuring 0.12 cents, S.No.461 / 3, measuring 0.03 cents at Pallipalayam Agraharam Village, S.No.183/4A, 184/1K, 184/3A, measuring 9600 sq.ft. at Elanthakuttai Village and in Survey No.163/1, measuring Acre 0.13-1/2 at Palliapalayam Agraharam Village, Namakkal District and the above said properties are self acquired properties of the petitioner herein. The petitioner is having three sons namely S.Duraisamy, S. Annachi and S.Rajagopalan.

3. It is the further case of the petitioner that the petitioner's eldest son viz., S.Duraisamy, who is the 6th respondent herein along with his wife Pavayee and their son D.Chandrasekar are demanding shares in his properties due to strained relationship between the petitioner and them. Whiles, the above said three persons along with other persons criminally conspired together and created forged General Power of Attorney, dated 16.3.1999 under Document No.202 of 1999, as if the petitioner had executed the said Power of Attorney in favour of S.Duraisamy/6th respondent in respect of petitioner's above said self acquired properties by way of forgery and impersonation and subsequently sold the said properties through document Nos.598/2005, 1834/2011, 1835/2011 on the file of 4th respondent viz., the Sub Registrar, Pallipalayam Sub Registrar Office, and Doc.No.1142 / 2005 on the file of the 3rd respondent viz., the Sub Registrar, Komarapalayam Sub Registrar Office, Komarapalayam. Moreover, another Power of Attorney had also been created in favour of petitioner's grand son D.Chandrasekar under Document No.519/2011 on the file of 4th respondent. Thus the documents bearing Document Nos.202/1999, 598/2005, 1142/2005, 1834/2011, 1835/2011 and 519/2011 were registered with the respondents 3 to 5 in a fraudulent way without the knowledge of the petitioner and the petitioner, on coming to know about the same on August 2011, lodged a police complaint on 19.08.2011 against them and based on the complaint, a case in Crime No.50 of 2011 was registered and during the course of enquiry, it was found that the document of power of attorney was created fraudulently and executed by way of impersonation. Therefore, the petitioner gave a representation on 20.5.2015 before the 1st respondent viz., the District Registrar (Admin), Office of the District Registrar, Trichy

Main Road, Namakkal District to cancel the documents viz., 598/2005, 1142/2005, 1834/2011, 1835/2011 and 519/2011, which were registered on the strength of the above said forged power of attorney deed under document No.202/1999. The 1st respondent responded for the same through his communication dated 10.9.2015 stating that since the documents were registered on the strength of forged power of attorney deed viz., Doc.No.202/1999 registered before the 2nd respondent, and if the same is cancelled before the 2nd respondent, then only the documents registered at Komarapalayam would be cancelled. On receipt of such communication from the 1st respondent, the petitioner approached 2nd respondent by his representation dated 21.9.2015 requesting to cancel the power of attorney document No.202 of 1999. On receipt of the same, the 2nd respondent, upon conducting a detailed enquiry, passed orders in his proceedings vide Na.Ka.No.4848/Aa1/12 dated 29.1.2016 by observing that the document of power of attorney dated 16.3.1999 was registered by way of impersonation in a fraudulent manner and declared it as a fraudulently registered document. It was further stated in the above said order that due to stay order of this Court against the circular of I.G.No.67 dated 3.11.2011 he is unable to consider petitioner's request for canceling the power of attorney deed. On receipt of the said order, the petitioner approached the 2nd respondent and submitted that there is no stay order for Circular 67 now and in order to prove the same, he submitted orders dated 19.11.2015 and 21.12.2015 passed by this Court in W.P.Nos.36763 and 23050 of 2015 respectively and on seeing the same, the 2nd respondent assured him that necessary orders would be passed within two weeks in respect of cancelation of those documents, but even after lapse of two weeks, he had not passed any order. Therefore, the petitioner sent his detailed representation dated 15.3.2016 requesting to cancel the Power of attorney deed dated 16.3.1999, since no action has been initiated till date, the petitioner has filed the present writ petition.

4. Today, when the matter is taken up for hearing, learned Government Advocate appearing for the respondent submitted that as on date, there is no stay order as against the circular No.67 of Inspector General of Registration dated 3.11.2011 and if a direction is given to the 2nd respondent to cancel the Power of Attorney dated 16.3.1999, the same would be considered.

5. Considering the facts and circumstances of the case, this Court directs the petitioner to give a fresh representation before the 2nd respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the 2nd respondent is directed to conduct enquiry by way of affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties and pass appropriate orders on merits

and in accordance with law within a period of eight weeks thereafter.

6. With the above direction, this Writ petition is disposed of. No costs.

msr

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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Pallipalayam, Namakkal District.

5.Joint Sub Registrar No.1,
Erode District Registrar Office,
Erode, Erode District.

+ 1 cc to Mr.R.Marudhachalamurthy, Advocate Sr 22276

+ 1 cc to The Govt.Pleader, Sr 22516

KR/2/6/16

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