

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.13258 of 2016

Guru Jeya Prakassh

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai 600 028.
2. The District Registrar,
South Madras, Chennai 600 015.
3. M.R.Prema

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the first respondent and the second respondent to dispose of the Petitioner's representations dated 3.9.2015 and 27.10.2015.

For Petitioner : Mr. R.Subramanian
For Respondents : Mr.P.Sanjay Gandhi
Addl. Govt. Pleader (R1 & R2)

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a mandamus upon the 1st respondent to direct the first respondent and the second respondent to dispose of his representations dated 3.9.2015 and 27.10.2015.

2. Heard Mr. R.Subramanian, learned counsel appearing for the petitioner and Mr. P.Sanjay Gandhi, learned Additional Government Pleader who took notice for respondents 1 and 2.

3. According to the petitioner, he and his wife are the owners of a property situate at Sub Registrar Office, Avadi and he has purchased the same by a registered sale deed dated 25.5.2009 and in the said property, he constructed a residential complex thereupon out of his own funds. Since the petitioner and his wife are living at USA, he along with his wife had

executed a General Power of Attorney dated 11.5.2009 at Sugarland Texas , USA which is notarized as per Section 33(1)(c) of the Indian Registration Act 1908 and adjudicated as per Section 32 of the Indian Stamp Act 1899 at SRO Villivakkam in favour of the Third respondent. Recently the petitioner had cancelled the General Power of Attorney executed in favour of third respondent under a deed of cancellation dated 17.10.2014 registered as document No.162 of 2014 at Sub Registrar Office Avadi and on the same day, he appointed one A.S.Sagayanathan as his attorney under a General Power of Attorney dated 17.10.2014, which is registered as document No.13067 of 2014 at Sub Registrar Office, avadi.

4. Notwithstanding the cancellation of the first General Power of attorney dated 11.5.2009, the 3rd respondent herein, on colluding with Sub Registrar, Avadi, created a false Sale Agreement dated 23.4.2015, registered as Document No.4938 of 2015 at Sub Registrar Office, Avadi in favour of one R.Pranesh with an ill intention to usurp the petitioner's share of the property. In spite of cancellation of the Power of Attorney executed in favour of the third respondent by the petitioner under Document No.162/IV/2014, followed by appointment of the said A.S.Sagayanathan as his subsequent Power Agent on 17.10.2014, which is registered as Document No.13067 of 2014, at Sub Registrar office, Avadi and despite a manifest entry thereof in the encumbrance certificate, the Sub Registrar in collusion with third respondent, who criminally misrepresented her as petitioner's Power Agent, has registered this illegal agreement dated 23.4.2015 as document No.4938 of 2015 at Sub Registrar Office, Avadi, six months after the aforesaid cancellation, which is utter violation of Section 34(3)(c) of Indian Registration Act, 1908. Thus, the third respondent was guilty of cheating, criminal misrepresentation, conspiracy, abetment, fraud and criminal usurpation of property and the Sub Registrar, Avadi was guilty of abetment and conspiracy. Hence the petitioner submitted a petition on 3.9.2015 followed by a reminder dated 27.10.2015, praying the first respondent to issue appropriate orders for cancellation of document No.4938 of 2015 as per Section 82 of the Indian Registration Act 1908 r/w Circular No.67 dated 3.11.2011, pursuant to which, the first respondent forwarded the same to the 2nd respondent vide his communication dated 10.12.2015.

5. It is the grievance of the petitioner that though the petitioner has made his representations on 3.9.2015 and 27.10.2015, the same are kept pending without passing any orders. Hence the petitioner has filed this present writ petition.

6. Considering the submissions made on either side, this Court, without going into the merits of the case, hereby directs the 2nd respondent viz., the District Registrar, South Madras, Chennai 600 015, to conduct enquiry as per Circular No.67 dated 3.11.2011, by affording an opportunity of personal hearing to the petitioner as well as to third respondent and to other necessary parties, if any, and pass appropriate orders on merits and in accordance with law. Such exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msr
To

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

2. The District Registrar,
South Madras, Chennai 600 015.

+1 cc to M/s.R.Subramanian Advocate sr.22332/16

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