

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.22985/2016 & WMP.Nos.19701 & 19702/2016

K.Selvi

..Petitioner

Versus

- 1.The District Registrar
O/o.The District Registrar,
Saram, Pondicherry.
- 2.The Sub Registrar,
Villianur, Pondicherry State.
- 3.Rajasekaran
- 4.P.Shanmugasamy

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records with respect of the order passed by the 1st respondent herein dated 13.07.2015 in his proceedings No.2586/RD/D-1/DRP/2015/719 and quash the same and consequently direct the 1st respondent to conduct enquiry and cancel the sale deed dated 06.12.1993 registered before the 2nd respondent in Doc.No.2256/1993.

For Petitioner : Mr.R.Nalliyappan

For R1&R2 : Mr.A.Tamilvanan G.A.
{Pondy}

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that the property in Cadastral No.231/1 in Survey Nos.11/15 and 11/16 belonged to her father, viz., Thiru Balabaskaran, S/o.Palanisamy and executed a registered Will dated 24.04.1989 in favour of the petitioner bequeathing the said property and her father died on 03.10.1992. The father of the petitioner, while he was alive, has executed a registered Power of Attorney bearing Document No.83/91 on 11.07.1991 in favour of one Rajasekaran,

who is the son of his younger brother. The grievance expressed by the petitioner is that though her father died on 03.10.1992, the Power of Attorney Agent has executed the documents on 06.12.1993 based on the Power of Attorney. According to the petitioner, the said act is per se illegal for the reason that once the Principal dies, the Power of Attorney agent cannot act on behalf of the Principal and in this regard, she has submitted a representation dated 07.05.2015 to the 1st respondent to take appropriate action and vide impugned notice dated 13.07.2015, it was rejected on the ground "barred by limitation".

3 The learned counsel for the petitioner would submit that the 1st respondent purported to have exercised under section 68[2] of the Indian Registration Act, 1908 and even then, the reason assigned in the impugned order is per se unsustainable and prays for appropriate orders.

4 Per contra, Mrs.D.Reena Ishwariya, learned Additional Government Pleader [Pondicherry] who accepts notice on behalf of the respondents 1 and 2 would submit that the 1st respondent in exercise of power u/s.68[2] of the Indian Registration Act, 1908, is entitled to pass an order for the reason that the document in question came to be registered as early as on 06.12.1993 and the petitioner has approached the said official only during 2015 and she has also not explained as to why she has kept quite for so long and therefore, the inaction on the part of the petitioner is also hit by delay and laches and prays for dismissal of the writ petition.

5 This Court has carefully considered the rival submissions and also perused the materials placed before it.

6 No doubt, the document in question came to be registered as early as on 06.12.1993 and the petitioner had approached the 1st respondent only on 07.05.2015, be that as it may, in the considered opinion of the Court, the invocation of section 68[2] of the Indian Registration Act, 1908, would not come to the aid of the 1st respondent to pass such an order.

7 In the result, the writ petition is partly allowed and the impugned notice of the 1st respondent dated 13.07.2015 in his proceedings No.2586/RD/D-1/DRP/2015/719 is set aside and the matter is once again remanded to the 1st respondent who shall put the respondents 3 and 4 on notice and thereafter, conduct an enquiry in accordance with law and pass orders thereon within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the respondents 3 and 4.

8 The writ petition is disposed of with the above direction and observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

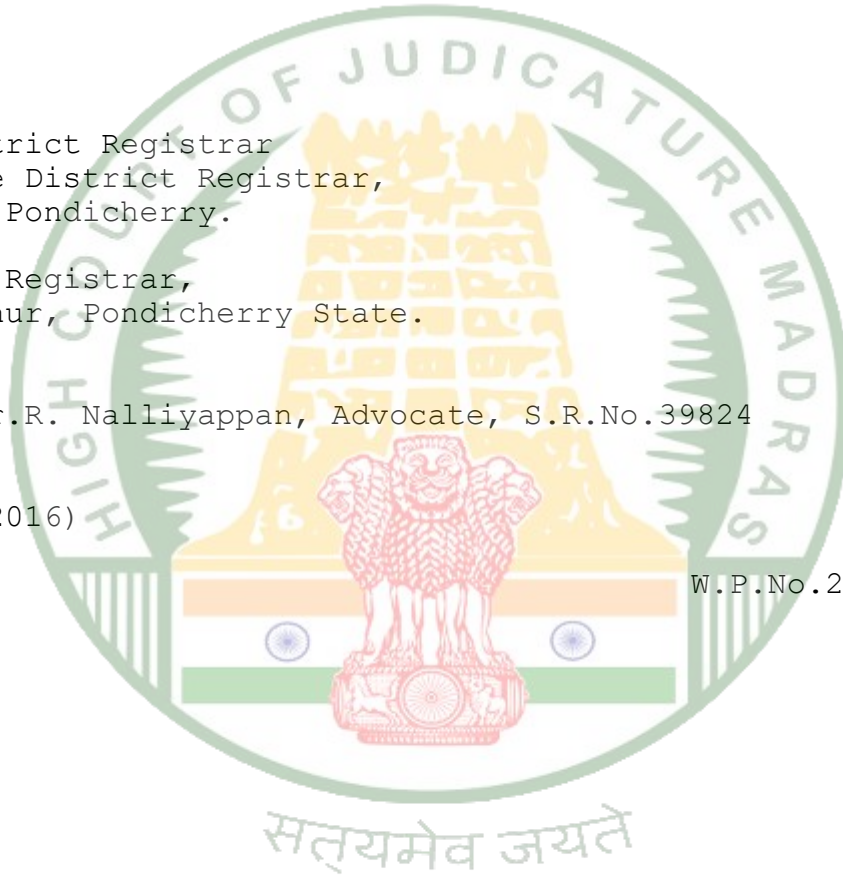
1.The District Registrar
O/o.The District Registrar,
Saram, Pondicherry.

2.The Sub Registrar,
Villianur, Pondicherry State.

+1cc to Mr.R. Nalliyappan, Advocate, S.R.No.39824

GR(CO)
EU(01/08/2016)

W.P.No.22985/2016



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