IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.04.2016

Date of Verdict : 2.06.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.3868 of 2016

C.S.Chandra ... Petitioner

Vs.

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Commercial Taxes and Revenue Department,
Fort St.George,
Chennai-600 009.

2. The Inspector General of Registration,
Door No.100, Santhome High Road,
Pattinampakkam,
Chennai-600 028.

3. The District Registrar (North Zone),
District Registrar Office,
Rajajisalai,
Chennai-600 001.

4. The Sub Registrar,
Office of the Sub Registrar,
Ambattur, Chennai-600 053.

5.The General Manager,
Vijaya Bank,Head Office,
No.41/2, M.G.Road,
Trinity Circle,
Bangalore-560 001.

6.The Branch Manager,
Vijaya Bank, Avadi Branch,
No.80/1, N.M.Road,
Avadi, Chennai-600 054.

7.Mrs.R.Maragathamani,
W/o.K.Ravichandran,
7/1 & 19, Ambedkar Street,
Teachers Colony,
Ambattur,
Chennai-600 053.

8.Mr.R.Ganesh,
S/o.K.Ravichandran,
7/1 & 19, Ambedkar Street,
Teachers Colony,
Ambattur, Chennai-600 053.

9.Mr.K.Ravichandran,
7/1 & 19, Ambedkar Street,
Teachers Colony,
Chennai-600 053. ... 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 District Registrar/3rd respondent herein to conduct the enquiry on the representation made by the petitioner, dated 2.8.2014 in the light of Circular No.67, dated 3.11.2011 in (C.No.52338/C1/2011) issued by the Inspector General of Registration/2nd respondent herein as per Section 49 of the Registration Act and Rules.

For Petitioner : Mr.A.Kothandaraman

For Respondents: : Mr.S.Pattabiraman, GA for R1 to R4
Mr.I.John Arockiadoss for R7 to R9
Mr.P.Thanigavel for R5&R6

ORDER

This Writ Petition has been filed, praying for the issuance of a Writ of Mandamus, to direct the District Registrar/3rd respondent herein to conduct the enquiry on the representation made by the petitioner, dated 2.8.2014 in the light of Circular No.67, dated 3.11.2011 in (C.No.52338/C1/2011) issued by the Inspector General of Registration/2nd respondent herein as per Section 49 of the Registration Act and Rules.

2. According to the petitioner, he is the owner of the vacant land measuring to an extent of 8742 sq.ft. comprised in S.No.512/1 situated at Sankuthalammal Street, Shoba Nagar, Thirumullaivoyal, Chennai-600 053. The 7th respondent, who is the wife of 9th respondent, has approached the petitioner and represented that they are the builders and they intend to purchase the above said property on outright sale consideration, however, as they were unable to mobilize funds, represented to the petitioner that they were interested in the property and willing to proceed with the construction under joint venture agreement, which was agreed by the petitioner and after negotiations, they agreed to purchase a portion of the property, i.e. to an extent of 5231 sq.ft. for their

customers in real estate business. The petitioner executed a General Power of Attorney, which was duly registered as Document No.14670/2013, dated 11.12.2013 in the office of the sub-registrar at Ambattur/4th respondent and his signature in joint venture agreement was obtained in order to proceed with the construction and sale of the agreed portion. While so, the 7th respondent made a false and frivolous complaint against the petitioner to the Inspector of Police, Thirumullaivoyal on 12.6.2014. That apart, taking advantage of the General Power of Attorney executed by the petitioner and after obtaining 'life certificate' from a doctor known to them, by forging the signature of the petitioner and submitted the same before the Sub Registrar/4th respondent and got the sale deed registered as Document No.8056/14, dated 16.6.2014 in favour of their son Mr.Ganesh/8th respondent, which is null and void. On coming to know about the said registration of the above said sale deed, the petitioner made a representation herein to the 4th respondent, requesting to retain the said sale deed and not to release the same since it was registered on forgery. The petitioner also gave a complaint to the Commissioner of Police on 10.7.2014 based on a which, a case was registered in Crime No.45/2015 against the respondents 7 to 9. The police also instructed the 4th respondent to retain the sale deed executed in favour of the 8th respondent, however, the 4th respondent released the document despite the letter sent by the Central Crime Branch Police. Thereafter, the respondents 7 to 9 have created equitable mortgage dated 17.7.2015 in favour of Vijaya Bank/6th respondent herein and obtained a loan for Rs.69,50,000/-. According to the petitioner, the alleged execution of the equitable mortgage would not bind on him. The 8th respondent herein also filed a suit for bare injunction, restraining the petitioner from interfering with the enjoyment of the property. As regards fraudulent transactions, the second respondent issued a Circular No.67, dated 3.11.2011 prescribing certain procedure to be followed. The grievance of the petitioner is that the 3rd respondent has not followed the procedure prescribed in the above said circular. Hence, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the respondents 7 to 9, by filing a detailed counter affidavit, would submit that the 7the and 9th respondents have not approached the petitioner for joint development, but it was the petitioner who approached the 7th respondent for joint venture and on mutual agreement, an agreement was entered into between the parties for a total consideration of Rs.1,28,00,000/- and the petitioner executed a registered Power of Attorney deed dated 11.12.2013 in favour of the 7th respondent in order to execute sale deeds in favour of the intending purchasers/nominees. The 9th respondent was not involved in the above said joint venture in any capacity. The petitioner had misled the 7th respondent into the joint venture by misrepresenting that her land had access to nearby 18 feet road, whereas, in reality, there was no such 18 feet road at all. In such

circumstances, 7th respondent was forced to give police complaint against the petitioner on 12.6.2014. During the enquiry, 7th respondent and the petitioner have orally agreed to resolve the dispute mutually and accordingly, the petitioner voluntarily produced her 'life certificate' and gave to the 7th respondent enabling her to execute necessary sale deeds. It is absurd on the part of the petitioner now to allege that these respondents obtained the said Life certificate from a doctor known to them and by forgery of her signature, got the sale deed executed. But, the petitioner has lodged a complaint against them and the same was registered as Crime No.45/2015. It is also stated that in fact, by virtue of the order of this Court in W.P.No.33958 of 2013, production of life certificate for registration of sale deeds by power agent is not required. Hence, there is no necessity for the respondents to produce the fake certificate by forging the signature of the petitioner. It is stated that the respondents 4 to 6 have acted as per law and the execution of the equitable mortgage on 17.7.2015 is in accordance with law. Hence, the learned counsel for the respondents 7 to 9 has sought for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner and the respondents 7 to 9 and perused the entire material available on record.

5. The case of the petitioner is that by taking advantage of the general power of attorney, the respondents 7 and 9 have obtained 'life certificate' from a doctor known to them by forging the signature of the petitioner in the said certificate and thereafter, submitted the same before the Sub Registrar, which is required for getting the sale deed registered and based on the power of attorney, they got the sale deed registered in favour of their son, Mr.Ganesh, 8^{th} respondent herein. Therefore, according to the petitioner, since the said transaction is a fraudulent one, he sought for initiating appropriate action by disposing of his representation, dated 2.8.2014 in the light of Circular No.67, dated 3.11.2011 in (C.No.52338/C1/2011) issued by the Inspector General of Registration/2nd respondent herein, as per Section 49 of the Registration Act and Rules.

6. In regard to the complaints pertaining to the fraudulent registration, the second respondent has issued a Circular bearing No.67, dated 3.11.2011, prescribing certain mandatory procedure to be followed, viz., sending notices to the executors of the document and conducting enquiry, etc., However, so far as the present case is concerned, it is to be noted that admittedly, the petitioner has executed power of attorney vide Document No.14670/2013, dated 11.12.2013 in favour of the 7^{th} respondent and she also entered into joint venture with him. It is not in dispute that the so-called registration of the sale deed dated 16.6.2014 in favour of the 8^{th} respondent was done based on the said power of attorney

since it was still in existence as on the date of execution of the sale deed. It is not the case of the petitioner that subsequently, she cancelled the power of attorney. Therefore, based on the valid power of attorney, the registration of the sale deed dated 16.6.2014 in favour of the 8th respondent had taken place. The only contention of the petitioner is that the respondents 7 and 9 have obtained 'life certificate' from a doctor known to them, by forging the signature of the petitioner in the said certificate and submitted the same before the Sub Registrar for the purpose of registration of the sale deed, dated 16.6.2014. Except this, no other allegation of forgery was attributed by the petitioner against the respondents 7 and 9. In fact, the life certificate is insisted only to prove that the principal is alive at the time of execution of the sale deed through power agent and in the present case, admittedly, the principal, who is none other than the petitioner herein, is alive. Further, in this case, respondents 7 and 9 are denying the allegations of the petitioner that they have obtained 'life certificate' from a doctor known to them by forging the signature of the petition in the said certificate. On the contrary, it is the case of the petitioner that 'life certificate' was voluntarily produced to them by the petitioner hereself. Be that it may, mere producing the fake life certificate by itself would not make the entire transaction as a fraudulent one when admittedly, based on the valid power of attorney, the transaction had taken place. Therefore, I do not find any merit to entertain the writ petition. However, if at all the petitioner is aggrieved that the respondent 7 had misused the power of attorney contrary to the agreed terms, it is needless to mention that the petitioner can work out her remedy in the manner known to law.

Accordingly, the Writ Petition fails and it is dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

suk

To

1. The Secretary to Government,
State of Tamil Nadu,
Commercial Taxes and Revenue Department,
Fort St.George,
Chennai-600 009.

2. The Inspector General of Registration,
Door No.100, Santhome High Road,
Pattinampakkam, Chennai-600 028.

3. The District Registrar (North Zone),
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5.The General Manager,
Vijaya Bank,Head Office,
No.41/2, M.G.Road,
Trinity Circle,
Bangalore-560 001.

1 cc to Government Pleader, Sr. 29510
1 cc to Mr.P. Thanigaivel, Sr. 29181
1 cc to Mr.A. Kothandarman, Advocate, Sr. 29182
1 cc to M/s.I. John Arockiadoss , Advocate, Sr. 29155

W.P.No.3868 of 2016

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