

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.369 of 2017

P.Chinnusamy

... Petitioner

vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Pattinambakkam,
Chennai 600 028.
 2. The Sub Registrar,
Tiruchengode,
Namakkal District.
 3. R.Natesan
 4. N.Kanagarathinam
 5. N.Prakash
 6. N.Karthikeyan
 7. R.Palanisamy
 8. N.Panneerselvam
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the entire records relating to impugned unilateral cancellation deed of power of attorney bearing Document No.216 of 2009, dated 16.02.2009 on the file of the 2nd respondent and quash the same and consequently forbear the respondents 3 to 6 from interfering with the peaceful possession and enjoyment of the land measuring an extent of 1.02 cents, comprised in S.No.6/2, situated at No.48, Kailasampalayam Village, Tiruchengode Taluk, Namakkal District.

For Petitioner : Mr.N.Naganathan

For Respondents 1 & 2: Mr.S.Rajeswaran,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned unilateral cancellation deed of power of attorney bearing Document No.216 of 2009, dated 16.02.2009 on the file of the 2nd respondent and for a consequential direction

to forbear respondents 3 to 6 from interfering with the peaceful possession and enjoyment of the land measuring an extent of 1.02 cents, comprised in S.No.6/2, situated at No.48, Kailasampalayam Village, Tiruchengode Taluk, Namakkal District.

2. According to the petitioner, respondents 3 to 6 are the owners of the property measuring an extent of 1 acre and 34 cents comprised in S.No.6/2, situated at No.48, Kailasampalayam Village, Tiruchengode Taluk, Namakkal District and they have jointly executed a General Power of Attorney in his favour vide registered Power of Attorney Document No.369 of 2003, dated 30.07.2003 in the office of the 2nd respondent herein, in respect of the said property. As per the contents of the said Power Deed, the petitioner sold an extent of 3,030 ½ sq. ft. of land to other persons and he further entered into a sale agreement with the 7th respondent herein for the remaining portion of the land measuring an extent of 1.27 cents. The said sale agreement was registered as Document No.2301 of 2003, dated 08.08.2003 and subsequently, it was extended vide registered Document No.3740 of 2006, dated 07.08.2006 in the office of the 2nd respondent and respondents 3 to 6 also agreed for the same.

3. Thereafter, the petitioner and the 7th respondent jointly sold the land measuring an extent of 0.25 cents out of 1.27 cents of land in favour of the 8th respondent by a registered sale deed Document No.3159 of 2008, dated 02.05.2008. While so, it is the case of the petitioner that respondents 3 to 6 herein, without giving any notice to him, unilaterally cancelled the said power of attorney on 16.02.2009 by registered cancellation deed of Power of Attorney Document No.216 of 2009 in the office of the 2nd respondent herein.

4. It is the further case of the petitioner that the Sale Deed dated 02.05.2008 was executed by him when the Power of Attorney was in force and further, respondents 3 to 6 received the sale consideration amount in respect of the land being sold by him. Pursuant to the sale deed, the 8th respondent herein mutated the revenue records in his name. However, according to the petitioner, respondents 3 to 6 intentionally filed a suit in O.S.No.23 of 2009 on 06.03.2009 before the Subordinate Court, Tiruchengode, for declaration of cancelling the sale deed dated 02.05.2008. Thereafter, the 7th respondent filed a suit for specific performance in O.S.No.6 of 2010 against the petitioner and respondents 3 to 8 before the Subordinate Court, Tiruchengode and the same stood decreed on 18.03.2016. Now, the petitioner is before this Court challenging the impugned unilateral cancellation deed of Power of Attorney, dated 16.02.2009, on the basis of the judgment rendered in AIR 1954 SC 316.

5. Heard the learned counsel on either side and perused

the material documents available on record.

6. When this matter was taken up for admission, this Court opined that the Writ Petition is not maintainable and hence, directed to post this matter under the caption 'for withdrawal'. Today, when the matter is taken up 'for withdrawal', learned counsel for the petitioner wanted an order on merits and hence, this order is passed on merits.

7. Though according to the petitioner, he did not receive any notice from the principal prior to cancellation of Power of Attorney Deed, according to respondents 3 to 6, they have issued a telegram to the petitioner in that regard on 18.02.2009. It is seen that the Civil Court has rightly decreed the suit in O.S.No.23 of 2009 on 18.03.2016. The petitioner cannot at this point of time come before this Court and contend that he was not served with private notice prior to cancellation of Power of Attorney. Moreover, it is represented that a First Appeal is pending against the said suit. Also, the suit filed by the 7th respondent in O.S.No.6 of 2010 against the respondents 3 to 8 stood dismissed on 18.03.2016.

8. In view of the above and as the petitioner has approached this Court challenging the impugned order after a lapse of seven years, this Writ Petition is not maintainable and accordingly, it is dismissed. No costs. Consequently, connected W.M.P.Nos.399 and 400 of 2017 are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Aeb

To:

1. The Inspector General of Registration,
No.100, Santhome High Road,
Pattinambakkam,
Chennai 600 028.
2. The Sub Registrar,
Tiruchengode,
Namakkal District.

+1 cc to Mr.N.Naganathan Advocate sr 2262

+1 cc to the Government Pleader sr 2226

W.P.No.369 of 2017

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