

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2017

Coram

The Hon'ble Mr.Justice B.Rajendran

Writ Petition No. 33933 of 2015

and

M.P.No.1 of 2015

and

W.M.P.No.22611 of 2016

A.Purushothaman

...Petitioner

Vs.

1. The Inspector General of Registration,
Mylapore, Chennai - 4.
2. The Sub Registrar,
Triplicane, Chennai- 5.
3. N.Ravi @ Ravichandran
4. Manonmani
5. K.Srinivasan
6. N.Abdul Khader
7. N.Abdul Majeed

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Declaration, declaring the registration of the sale deed in respect of the property in Door No.17, Narasingarapuram, Mohammed Hussain Sahib, 1st Street, Chindadripet, Chennai, in Doc.No.96 of 2011, dated 31.01.2011, in the office of the second respondent and the consequential deed of settlement registered in the Office of the second respondent, in Doc No.1070 of 2012, dated 17.09.2012, as illegal and against the provisions of Registration Act, 1908.

For Petitioner : Mr.L.Chandrakumar

For Respondents 1&2: Mr.A.N.Thambidurai
Special Government Pleader

For Respondents 4,6&7: Mr.Venkatachalapathy
Senior Counsel for
Mr.M.Kamaraj

O R D E R

The prayer in the Writ Petition is for issuance of a writ of declaration, to declare the registration of the sale deed, in respect of the property at Door No.17, Narasingarapuram, Mohammed Hussain Sahib, 1st Street, Chindadripet, Chennai, registered vide Document No.96 of 2011, dated 31.01.2011, in the Office of the second respondent and the consequential deed of settlement, registered in the Office of the second respondent, dated 17.09.2012, as void and against the provisions of Registration Act 1908.

2. The learned counsel appearing for the petitioner has submitted that the petitioner proposed to purchase a property, valued at Rupees 35 Lakhs, which has been jointly owned by the respondents 3, 4, 5 and one Sumathi and Loganathan, and he paid a sum of Rs.25 lakhs and obtained a promissory bond and a registered power of attorney in the District Registrar, Cuddalore. Ever since the date of registration of the Power of Attorney, the petitioner was paying money to the respondents 3 to 5 as and when they demanded. In fact, based on the said Power of Attorney, he entered into a sale agreement with one Jayaraman, in the very same office of the second respondent, and paid money to the respondents 3 to 5. The learned counsel submitted that, when the power was in force, the respondents 3 to 5 sold the property to the sixth respondent behind the back of the petitioner. The sixth respondent, despite knowing that the property in question is legally transferable to the petitioner, mala fidely settled the property in favour of his brother/seventh respondent, by way of a settlement deed, dated 17.09.2012. The learned counsel, therefore, submitted that the respondents 3 to 5 have violated the provisions of the Registration Act, and thereby, committed fraud, as the Power of Attorney executed in favour of the petitioner has been cancelled unilaterally. Therefore, the learned counsel prays that the sale deed, dated 31.01.2011, and the settlement deed, dated 17.09.2012 have to be declared as null and void.

4. The learned Senior Counsel for the respondents 6 and 7 would contend that the Power of Attorney was executed at Cuddalore by some of the owners, which includes the respondents 3 to 5, in respect of their share with respect to the property at Chennai. After a long lapse of seven years, since nothing has happened through the Power of Attorney, the original owners have jointly executed the sale deed in respect of the entire property in favour of the sixth respondent, who in turn, settled the same in favour of the seventh respondent. There is no embargo for the original owners to sell the property, eventhough, the petitioner claims that he is the attorney holder, and the power has been cancelled unilaterally.

5. As rightly pointed out by the learned counsel for the respondents, there is no embargo for the original owners to execute the sale deed, eventhough there is a power of attorney. That apart, the Writ Petition itself is not maintainable, as it is not known as to whether the Power of Attorney executed in favour of the petitioner has been cancelled unilaterally, as alleged by the petitioner, or the respondents 3 to 5 executed the sale deed in favour of the sixth respondent without the consent of the petitioner. Therefore, these mixed question of fact cannot be resolved in a Writ Petition.

6. For the reasons stated hereinabove, the Writ Petition is dismissed. However, it is open to the petitioner to approach appropriate forum seeking necessary relief. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector General of Registration,
Mylapore, Chennai - 4.
2. The Sub Registrar,
Triplicane, Chennai- 5.

+1 cc to the Government Pleader High Court Madras
sr 881
+2 ccs to M/s.V.Umashankari Advocate sr 557
+1 cc to M/s.L.Chandrakumar Advocate sr 847

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