



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.09.2017
CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

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W.P.(MD)No.9451 of 2017
and
WMP(MD)No.7187 of 2017

M/s.Shar Theme Park (P) Ltd.,
rep. by its Managing Director,
N.V.S.Anandan

: Petitioner

-vs-

1. The Joint Registrar-III,
Tiruchirapalli.
2. Kambarasampettai Panchayat,
rep. by its Special Officer,
Anthanallur Union,
Kambarasampettai Village,
Srirangam Taluk,
Tiruchirapalli District.
3. Sivakumar
4. Salai Natarajan
5. Rajendran
[R5 impleaded as per order,
dated 31.07.2017 made in
WMP(MD)No.10616/2917]

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent herein in Na.Ka.No.756/2016, dated 03.03.2017 and quash the same and forbearing the 1st respondent herein from entertaining any further encumbrances on the properties in question, subject matter of the petitioner's Protect Petition No.10 of 2016.

For Petitioner

: Mr.G.Jeremiah

For R1 and R2

: Mr.G.Muthukannan

Government Advocate

For 3rd Respondent

: Mr.V.Karthikeyan

For 4th respondent

: Mr.M.Siddharthan

For 5th respondent

: Mr.K.Sukumar

for Mr.P.Senguttuarasan

**O R D E R**

The petitioner has come up with this writ petition challenging the proceedings of the 1st respondent, dated 03.03.2017 and to forbear the 1st respondent from entertaining any further encumbrances on the properties in question subject matter of the petitioner's Protest Petition No.10 of 2016.

2. According to the petitioner, it is a company incorporated under the Companies Act and it owns lands to an extent of 16.64 acres in Survey Nos. 1/2A, 1/3A, 1/5, 2/2, 25/1, 25/10, 1/6, 1/1, 1/9, 1/10, 25/2, 1/7 and 1/8 at Kambarasampettai Village, Srirangam Taluk, Tiruchirapalli District.

3. The petitioner would claim that a power of attorney, dated 07.12.2011 was registered as document No. 519/2011, whereby the petitioner appointed one K. Rajendran and Mr. T. Ramesh, as his power agents to develop the said properties, by converting into mixed house sites. Subsequently, the earlier power of attorney was cancelled by registering a document bearing No. 3894 of 2014, dated 30.10.2014 and a new power of attorney was executed in favour of K. Rajendran alone to deal with the property. The Government by Government Order in G.O. (2D) No. 83, dated 27.05.2015 converted the property from agricultural land to mixed commercial and house sites. But in the meanwhile, the land to an extent of 2,07,000 sq. feet were gifted in favour of Kambarasampettai Panchayat for the purpose of laying road and for open space reservation. When the land was obsoletely vested with the said Panchayat, with a view to grab the properties, the gift deed was cancelled and the properties were sold by creating false sale deeds for a meagre sum of Rs. 5.07 Crores, which worth about more than 100 Crores. Hence, the petitioner initiated proceedings questioning the unilateral cancellation of the gift deed and the fraudulent sale deeds executed by the Power Agent and also filed a Protest Petition.

4. The 5th respondent has filed a detailed counter stating that pursuant of the power of attorney executed by the petitioner, dated 07.12.2011, a gift deed, dated 14.06.2012 was executed in favour of the 2nd respondent for approval of the lay out and after they became aware of the fact that the 2nd respondent has got power to grant approval only to an extent of 48 cents and the petitioner company could get approval of lay out only from the Director of Town and Country Planning, the gift deed was cancelled on 08.11.2012.

5. It is further stated that though, on 30.10.2014 the petitioner cancelled the power of attorney, dated 07.12.2011, but on the same day, a fresh power of attorney was executed by the petitioner in favour of the 5th respondent. The land was originally classified as 'Agricultural zone', so, no development activities could be carried out and for the purpose of putting up



construction, the zone had to be converted into mixed residential zone. Hence, the petitioner approached the authorities for conversion of the land and it was also granted by the Principal Secretary to the Government of Tamil Nadu Housing and Rural Development by means of G.O.No.83 on 27.05.2015. However, mere conversion as mixed residential zone will not automatically enable the parties to convert the land into house sites and it continues to be the agricultural land, which was also reflected in the revenue records.

6.It is further stated that by virtue of execution of sale deeds through the 5th respondent, dated 26.06.2015, 29.06.2015, 27.07.2015 and 06.08.2015, the petitioner ceased to be the owner of the entire land in the year 2015 itself and therefore, the petitioner cannot claim ownership on the date of filing of the writ petition i.e., on 22.05.2017 and the petitioner has no *locus standi* to maintain the writ petition. It is further stated that there is no allegation of forgery of documents, impersonation, false representation or misrepresentation and therefore, the petitioner cannot seek cancellation of the deeds with the aid of Circular 67 issued by the Inspector General of Registration, Chennai, dated 03.11.2011 and prayed for dismissal of the writ petition.

7.The 4th respondent one of the purchasers of the property filed a counter in the same line of the counter filed by the 5th respondent.

8.Heard Mr.G.Jeremiah, learned counsel for the petitioner, Mr.G.Muthukannan, learned Government Advocate for the respondents 1 and 2, Mr.V.Karthikeyan, learned counsel for the 3rd respondent, Mr.M.Siddharthan, learned counsel for the 4th respondent, Mr.K.Sukumar, learned counsel for the 5th respondent and perused the materials available on record.

9.The sum and substance of the allegation of the petitioner is that the power agent unilaterally cancelled the gift deed, dated 14.06.2012 and executed sale deeds without his knowledge and consent, for lesser price.

10.It is the case of the 5th respondent that the petitioner had already sold the entire property through sale deeds and though they were executed by the power agent, it should be construed as if the Principal has executed them, in view of the dictum laid down by the Apex Court in the judgment reported in **2009(4)CTC 788 [Rajni Tandon vs. Dulal Ranjan Ghosh Dastidar and others]**.

11.In the above decision, the Hon'ble Apex Court has held as

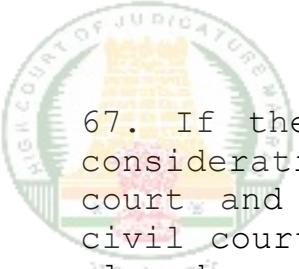


of the categories of persons who are eligible to present documents before the registration office in terms of Section 32 of the Act is the "Person executing" the document. The expression "person executing" used in Section 32 of the Act, can only refer to the person who actually signs or marks the document in token of execution, whether for himself or on behalf of some other person. Thus, "person executing" as used in Section 32(a) of the Act signifies the person actually executing the document and includes a principal who executes by means of an agent. Where a person holds a power of attorney which authorizes him to execute a document as agent for some one else, and he executes a document under the terms of the power of attorney, he is, so far as the registration office is concerned, the actual executant of the document and is entitled under Section 32(a) to present it for registration and get it registered."

12. In the instant case, it is not in dispute that a gift deed was executed in favour of the 2nd respondent to an extent of 2,07,000 sq. feet on 14.06.2012 to get approval of lay out on the premise that the 2nd respondent has got power to grant approval to the extent sought for, but it was cancelled on 08.11.2012 on the ground that he had no authority. So, by cancellation of the gift deed, the 2nd respondent could be a party aggrieved, but indisputably, the 2nd respondent has not challenged the cancellation of the gift deed so far.

13. Further, admittedly the land in question was originally classified as Agricultural land, later it was converted into mixed residential zone and even after reclassification, it continued as an agricultural land in the revenue records. If lands have been sold by misrepresentation, the aggrieved person could be the purchaser and not the petitioner herein. The execution of the power of attorney in favour of the 5th respondent in respect of the lands in the year 2014 is not in dispute. It is also not disputed that when the power of attorney was in force, the 5th respondent sold the property by registered sale deeds in favour of the 3rd parties.

14. The grievance of the petitioner appears to be that the lands are worth more than 100 Crores, however, it was sold for a meagre sum of 5 Crores. It is to be noted that the Inspector General of Registration issued the Circular No.67, dated 03.11.2011 to deal with the allegations/complaints relating to fraudulent registrations through impersonation or production of false documents and evidence. Therefore, the Circular came to be issued to handle different situation and the allegations made by the petitioner, in my view, do not warrant action under Circular



67. If the petitioner has any grievance in respect of the sale consideration, his remedy is to approach only the competent civil court and unless the documents are set aside by the competent civil court, the petitioner cannot claim right over the properties already sold. Hence, in my view, the first respondent was rightly rejected the protest application of the petitioner.

15. In the case of **Rajini Tandon** referred supra, the Hon'ble Apex Court held that the person executed the document as per section 32(a) of the Act includes the Principal, who executes by means of Agent.

16. In the light of the above facts, I find no ground to set aside the order impugned in this writ petition. In that view, the writ petition fails and the same is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Joint Registrar-III,
Tiruchirapalli.
2. Special Officer,
Kambarasampettai Panchayat,
Anthanalur Union,
Kambarasampettai Village,
Srirangam Taluk,
Tiruchirapalli District.

+ 1 CC TO MR.G.Jeremiah, ADVOCATE IN SR No. 81188
+ 2 CC TO MR.V.Karthikeyan, ADVOCATE IN SR No. 80678
MK/SV MMS/SAR-4/24.10.2017/5P/6C

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