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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated :28.09.2018
CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD)No.1293 of 2018
and
C.M.P (MD)No.9153 of 2018

Maheswari .. Appellant / Petitioner
Vs.

1.The Sub-Registrar,
Sub-Registrar Office,
Orathanadu,
Thanajavur District.

2.Mr.Gunasekaran .. Respondents / Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 07.09.2018 passed in W.P(MD)No.1208 of 2017 on the file of this Court by allowing this appeal.

Prayer in WP(MD)No. 1208/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus forbearing the 1st respondent from registereing any documents based on the power of attorney executed to the 2nd respondent by the petitioner and one Thamaraikanni dated 24.06.2016.

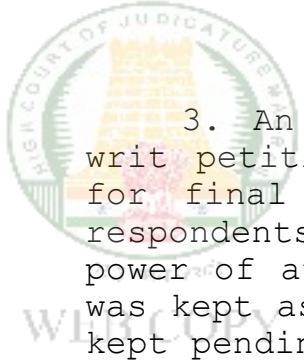
For Appellants	: Mr.T.A.Ebenezer
For R-1	: Mr.M.Murugan, Government Advocate
For R-2	: Mr.P.Krishnan for Mr.Balaji

JUDGMENT

**[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]**

The writ petitioner aggrieved by the order passed in W.P(MD) No.1208 of 2017, dated 07.09.2018, has filed the above writ appeal.

2. The relief sought for by the writ petitioner is to forbear the Sub-Registrar from registering any document based on the power of attorney dated 24.06.2016 executed by the writ petitioner / appellant in favour of the second respondent.



3. An interim order of status-quo was earlier passed in the writ petition. Subsequently, when the writ petition was taken up for final hearing, it was represented by the first and second respondents that registration of the document presented through the power of attorney was over as early as on 26.12.2016 itself and it was kept as a pending document in document no.25 of 2016 and it was kept pending because of the power of attorney executed by the writ petitioner was challenged by her. Based on such representation, the learned single Judge dismissed the writ petition. Aggrieved by the same, the present writ appeal is filed.

4. The learned Government Advocate appearing for the first respondent today produced the extract of the pending documents from the Sub-Registrar office, Orathanadu, in which, the document in dispute has been given in document no.25 of 2016 and the reason is 'சிறப்பு, தனி அதிகார ஆவண உண்மை தன்மை அறிய மற்றும் பரிசீலனைக்காக'. It was contended even before the learned single Judge that because of this reason, the document was not released by the first respondent. However, subsequent to the order of the Division Bench in case of Special Deputy Collector (Stamps), Palayamkottai and another v. M.Alfred and others reported in 2017(2) CWC 896, the said document is released and the document is also given in document no.1565 of 2018.

5. We have heard the submissions made on either side and perused the materials placed before us.

6. Though the learned counsel for the appellant argues that the power of attorney is obtained by force and she did not intend to sell the property, that is not the case of the appellant even in the affidavit filed in support of the writ petition. Even assuming, it is obtained by force, it is open to her to lodge a police complaint and cancel the power of attorney. Despite the fact that the power of attorney was executed on 24.06.2016 and the sale deed was executed on 26.12.2016 based on the power of attorney, the appellant had not taken any legal action.

7. It is relevant to note that on the date of registration, the power of attorney was in force. Therefore, only for the purpose of 'life certificate', the document was kept as 'pending'. Admittedly, the appellant had issued a legal notice on 07.01.2017 only cancelling the power of attorney. Therefore, on the date when the document in dispute was registered, there is no impediment for the authorities to register and release the same pursuant to the orders of the Division Bench of this Court. If the appellant is otherwise aggrieved that the power of attorney is obtained by force and the document is executed fraudulently, it is also open to her to pursue her remedy in the manner known to law before any competent civil Court.



8. In the light of the above, there is no merits in the writ appeal and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS-II)

Sub Assistant Registrar(CS-I)

To:

The Sub-Registrar,
Sub-Registrar Office,
Orathanadu,
Thanajavur District.

+1CC to Mr.P.KRISHNAN, Advocate, SR.No. 87500

+1CC to Mr.T.A.Ebenezer, Advocate, SR.No.87669

+1CC to the Special Government Pleader SR.No. 87770

W.A(MD)No.1293 of 2018
28.09.2018

PM

ES/PM/SAR 1/27.10.2018/3P/5C