

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.26994 of 2015 &
M.P.No.1 of 2015

- 1.John Silvester Arul
2.Mrs.Violet Vinnarasi Arul ... Petitioners

No.3/6, 13th Cross, II Floor,
Sastri Nagar, Adyar,
Chennai - 600 020.

[Rep. by Power of Attorney Agent,
Mrs. A.Daisy, W/o. Late O.P.R.Arul,
No.3/6, 13th Cross, II Floor,
Sastri Nagar, Adyar,
Chennai- 60 0020.]

Vs

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakam,
Chennai - 600 004.
- 2.The District Registrar,
North Madras,
Rajaji Salai,
Chennai - 600 001.
- 3.The Sub Registrar, सत्यमेव जयते
Office of the Sub Registrar,
Red Hills,
Chennai - 600 052.
- 4.The Commissioner of Police,
Central Crime Branch,
Vepery, Chennai - 600 007.

- 5.P.Panchatcharam ... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents 1 to 3 herein to take immediate action to cancel the registration of Power of Attorney, dated 30.03.2015 in Document No.3097 of 2015 in

the Office of the Sub Registrar, Red Hills executed in favour of fifth respondent herein and take appropriate steps under Sections 82 and 83 of the Registration Act against the offenders of crime.

For Petitioners : Mr.AR.L.Sundaresan
Senior Counsel
For M/s.AL.Ganthimathi

For Respondents : Mr.P.P.Purushothaman
Government Advocate for R1 to R3

Mr.D.Suriya Narayanan
Additional Government Pleader for R4
R5 (No appearance)

O R D E R

Heard Mr.AR.L.Sundaresan, learned Senior Counsel, representing M/s.AL.Ganthimathi, learned counsel for the petitioners; Mr.P.P.Purushothaman, learned Government Advocate for the respondents 1 to 3; Mr.D.Suriya Narayanan, learned Additional Government Pleader for the fourth respondent. Despite service of notice on the fifth respondent, none appeared for him.

2. This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to take immediate action to cancel the registration of Power of Attorney, dated 30.03.2015 in Document No.3097 of 2015 in the Office of the Sub Registrar, Red Hills executed in favour of fifth respondent and take appropriate steps under Sections 82 and 83 of the Registration Act against the offenders of crime.

3. According to the petitioners, they purchased a property bearing Plot Nos.266 & 267 in V.S.Mani Ring Road Co-operative Housing Sector, Vilakkupattu Village, Ambattur Taluk, comprised in Old Survey No.2/1A, New Survey No.2/1A1, measuring to an extent of 3600 sq.ft, vide sale deed dated 28.04.1999, registered as document No.2603 of 2009.

4. The further case of the petitioners is that the first petitioner came to India on 10.10.2014 and left India on 19.10.2014 and the second petitioner came to India on 08.12.2014 and left India on 21.12.2014. However, to their shock and surprise, on 30.03.2015, a forged Power of Attorney was created in favour of the fifth respondent as if the petitioners have executed the

Power of Attorney in India. It is the case of the petitioners that the Deed of Power of Attorney, dated 30.03.2015 is illegal and the registration deserves to be cancelled.

5. It is stated in the counter affidavit filed by the third respondent that he is not empowered to cancel the registration of documents, unless a specific order is issued by the Court. However, appropriate action is being initiated against the person, who presented the said Power of Attorney for registration, under Section 83 of the Registration Act.

6. Mr.AR.L.Sundaresan, learned Senior Counsel for the petitioners would urge that the passport of the petitioners enclosed in the typed-set would prove that the petitioners left India on 19.10.2014 and 21.12.2014 respectively and came to India only in the month of June 2015 and thereby it is established both the petitioners were not in India on the date of execution of the Power of Attorney and it could be only by impersonation. In this regard, the learned counsel also referred the photographs of the executors of the Power of Attorney and the petitioners.

7. Mr.P.P.Purushothaman, learned Government Advocate for the respondents 1 to 3 by pointing out the Circular issued by the first respondent in Letter No.41530/U1/2017, dated 31.07.2018 would submit that after withdrawing the earlier Circular No.67, dated 03.11.2011, the District Registrar is now empowered to conduct an enquiry and if it is found that the document is a forged one, he could make an entry in the footnote of the document and he can also pass orders, directing the Officers not to register document based on the fraudulent document and can permit the genuine owner to deal with the property.

8. In the case on hand, it is not in dispute that the petitioners are the joint owners of two plots bearing plot Nos.266 and 267, by virtue of a registered sale deed, dated 28.04.1999. By issuing a Circular No.67, dated 03.11.2011, the District Registrars were empowered to declare a document as a forged one and that power has been subsequently withdrawn by issuing a fresh Circular dated 31.07.2018. The photographs of the petitioners in the passport and the scanned photographs of the principals, who are said to have executed the Power of Attorney in question would reveal that the petitioners were not signatories of the Power of Attorney. Further, on the date of execution of Power of Attorney i.e.,

30.03.2015, the petitioners had been in U.S.A. Since it has been proved beyond doubt that they were not in India on the date of execution of Power of Attorney, it is the classic case of impersonation, this Court is of the considered opinion that the Power of Attorney executed in favour of the fifth respondent, dated 30.03.2015 in Document No.3097 of 2015 in the Office of the Sub Registrar, Red Hills, is liable to be cancelled and accordingly it is cancelled.

9. In fine, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam,
Chennai - 600 004.

2.The District Registrar,
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3.The Sub Registrar,
Office of the Sub Registrar,
Red Hills,
Chennai - 600 052.

4.The Commissioner of Police,
Central Crime Branch,
Vepery, Chennai - 600 007.

+1cc to M/s.AL.Gandhimathi , Advocate SR.No. 65158

+1 cc to Government Pleader Sr.No. 65514

W.P.No.26994 of 2015 &

M.P.No.1 of 2015

nrl (CO)
A.SK(05/09/2019)