

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.10.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.19215 of 2019

Ozone Homes Private Limited,
Rep.by its Authorized Signatory Mr.K.Krishnan
No.63, G.N.Chetty Road,
T.Nagar, Chennai - 600 017.

Petitioner

Versus

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai - 600 004.
2. The District Registrar,
Anna Nagar,
Chennai - 40.
3. T A S C Jawahar Ayya @ Jawher Anand ...

Respondents

PRAYER:-Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to complete the registration formalities in respect of the Pending Sale Deeds Document No.37 of 2019 and No.117/2019 on the file of the 2nd respondent dated 06.03.2019 and 01.07.2019 respectively and release the registered documents without insisting the Life Certificate of the 3rd respondent/Principal in the prescribed format.

For Petitioner .. Mr.P.V.Balasubramaniam
For M/s.BFS Legal

For R1 and R2 ... Mr.T.M.Pappiah,
Special Govt.Pleader

For R3 .. Mr.K.Pattabhi

O R D E R

The petitioner herein has filed this Writ Petition seeking Mandamus, directing the 2nd respondent to complete the registration formalities in respect of the Pending Sale Deeds Document No.37 of 2019 and No.117/2019 on the file of the 2nd respondent dated 06.03.2019 and 01.07.2019 respectively and release the registered documents without insisting the Life Certificate of the 3rd respondent/Principal in the prescribed format.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The grievance of the petitioner herein is that based on the Power of Attorney documents executed by land owner in favour of the petitioner he sought for Registration of the documents No.37/19 and 117/19 before the second respondent. The documents were not accepted for Registration. The third respondent who is the Principal of the petitioner due to subsequent misunderstanding between the petitioner and the third respondent has refused to give Life Certificate. Hence, the present Writ Petition seeking direction the nature of Mandamus, to direct the second respondent to complete the Registration formalities of the pending Sale Deeds Document No.37/19 and 117/19 on the file of the second respondent dated 06.03.2019 and 01.07.2019 respectively.

4. The principal who is the third respondent herein has filed a counter objecting the Writ Petition on the ground that the Power of Attorney Deed is no longer in force. By virtue of Section 207 of the Indian Contracts Act, the Power of Attorney Deed has been implicit revoked. Hence, the documents presented by the Agent has been rightly returned by the second respondent.

5. In support of his submissions, the learned counsel appearing for the third respondent has relied upon the judgment rendered by the Panjab and the Haryana High Court reported in 1987 SCC online P&H 891 (Amrik Singh (deceased) Rep.by his L.Rs Darshan Singh & ors Vs.Sohan Singh (deceased) represented by his legal heirs Gurdev Kaur and ors], wherein the Court has observed after considering the evidence on record held that revocation of power could be either expressly or impliedly as provided under Section 207 of the Indian Contracts Act. The material fact found in that case is extracted by the Court as below:-

3. The learned counsel for the plaintiff-appellant contended that the finding of the trial Court has been reversed

in appeal arbitrarily by the Lower Appellate Court. The evidence on the record, it was amply proved that both Sohan Singh and Karnail Singh were informed by Amar Singh deceased that he should not execute any deed on his behalf and the regular cancellation deed was going to be executed by him. Sohan Singh was the son of Amar Singh deceased whereas Karnail Singh defendant mortgagee also belongs to the same village and was residing about 40 yards away from the residence of Amar Singh. Thus, argued the learned counsel, the revocation may be expressed or may be implied in the conduct of the principal agent and, therefore, once Sohan Singh was informed of the intention of Amar Singh plaintiff, the Power of Attorney will be deemed to have been cancelled. (Emphasis added)

6. In response to this plea, the learned counsel for the petitioner would submit that earlier, when the Registrar refused to accept the documents presented by the petitioner, he approached this Court filing W.P.No.32593 of 2018, wherein the third respondent was a party and raised a similar objection. In that Writ Petition after considering the rival submissions, this Court has held that the Power of Attorney is in force and the principal is duty bound to perform is part of contract and cannot shirk responsibility.

7. In W.P.No.32593 of 2018 between the parties, Court has held that the fact that the Principal has raised a dispute before the Arbitrator and participating in the Arbitration proceedings is a proof of his aliveness. The object of seeking Life Certificate very well get satisfy from the facts available and therefore, the second respondent need not insist for Life Certificate. The said judgment rendered in W.P.No.32593 of 2018 binds the parties. The factual position still the same and no change in fact or law for this Court to take a different view.

8. The contentions of the learned counsel appearing for the third respondent that by preferring Arbitration proceedings, the Power of Attorney has become revoked implicitly. Revocation of power can be inferred through conduct but she said the conduce must be explicit. Filing Arbitration Petition if so facts will not lead to an interference of revocation of Power of Attorney.

9. It is an admitted fact that till date, the third respondent has neither caused any notice for revoking the Power

of Attorney nor made explicit to the petitioner about his intention to revoke the Power of Attorney. Unlike, the facts of the case found in the judgment cited by the third respondent. More particularly when Clause 28 of the Power of Attorney Deed specifically say that it is in irrevocable Power of Attorney Deed, there must be specific and explicit written document which could lead to an interference that by conduct the principal has revoked the Power of Attorney as contemplated under Section 207 of the Indian Contract Act. When there is nothing available for Court or to the respondent to interfere revocation of Power of Attorney and when there is ample material to interfere the principle is alive, in the peculiar facts of the case and in view of the earlier judgment of this Court in W.P.No.32593 of 2018 dated 19.02.2019, the second respondent need not insist for Life Certificate.

10. Accordingly, this Writ Petition is allowed and the second respondent shall release the documents No.37/19 and 117/19 prescribed by the petitioner which are pending with him for production of Life Certificate after collecting the necessary stamp duty and registration charges. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

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

2. The District Registrar,
Anna Nagar,
Chennai - 40.

+1cc to M/s.BFS Legal, Advocate sr.88620
+1cc to Special Government Pleader sr.88744
+1cc to M/s.K.Pattabhi, Advocate sr.88452

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rp(co)
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