

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.15573 of 2003

and

W.M.P.No.205 of 2013

B.Gurubagyan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Commercial Taxes Department,
Fort. St.George, Chennai-9.

2.The District Registrar,
Chennai Central,
Chennai-18.

3.The Sub-Registrar,
Mylapore,
Santhome High Road,
Chennai-4.

4.S.M.Nizamuddin Fakhri (Deceased),

5.S.M.Azam Abdul Khader Fakhri

6.S.M.Shahbuddin Fakhri

7.S.M.Naseefuddin Fakhri

8.S.M.Kamaluddin Fakhri

9.S.M.Naseeruddin Fakhri (Deceased)

10.S.M.Abdul Khader Fakhri

11.S.M.Abdul Naseer Fakhri

12.P.Dharamchand

13.Ghousia Begum

14.Shameen Fakhri

15.Fathima Zahra Naveen

16.S.M.Naser Fakhri

... Respondents

[R13 to R16 substituted as LR's in
the place of deceased 4th and 9th
respondents as per order of this
Court 04.04.2013 in W.M.P.No.396 of
2012 in W.P.No.15573 of 2003.

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari Mandamus, to call for the records on the file of the second respondent in Appeal No.2 of 2003 dated 12.03.2003 and quash the same and direct the 3rd respondent to set aside the deeds of cancellation registered under Doc.No.710/2003, dated 09.06.2002 registered on 28.03.2003 in the file of the 3rd respondent.

For Petitioner : M/s.J.Surendra Babu

For R1 to R3 : M/s.T.M.Pappiah
Special Government Pleader

For R5 to R8 &
R10 to R12 : Mr.R.Natarajan

ORDER

In the present case, the respondents 4 to 11 appointed the 12th respondent as their Power of Attorney by an unregistered Power of Attorney dated 14.05.2002 and the 12th respondent has attempted to cancel the sale deed executed in favour of the petitioner by cancellation deed dated 09.06.2002 on 10.06.2002. The 3rd respondent has refused to register the deed of cancellation under Refusal Nos.27 of 2002, dated 26.12.2002. Against which, the 12th respondent preferred an appeal to the 2nd respondent and the 2nd respondent has ordered registration of cancellation of sale deed in Appeal No.2 of 2003, dated 12.03.2003 and the 3rd respondent has admitted the deed of cancellation and registered it as Doc.No.710 of 2003, dated 09.06.2002. Aggrieved over the same, the petitioner has filed this present Writ Petition.

2.The learned counsel for the petitioner would submit that the 2nd respondent ordered registration of cancellation of sale deed without express consent of the petitioner as per G.O.Ms.150, Commercial Taxes, dated 22.09.2000. He would further submit that the very same dispute with regard to cancellation of sale deed, the respondent has filed a Civil Suit in C.S.No.72 of 2002 before this Court and hence, this Court may permit the petitioner to raise all the issues in the said suit and also made an endorsement as follows:-

"The points urged in W.P.Nos.15228 2002, 15579, 15613, 15285, 15289, 15303, 15573 & 24515

of 2003 may be canvassed in C.S.No.72 of 2002."

3.The learned counsel for the respondents would submit that they have no objection to grant liberty to the petitioner to canvass all the issues before the civil Court.

4.Recording the submission made by the learned counsel for the petitioner, the Writ Petition stands disposed of, by giving liberty to the petitioner to work out his remedy before the civil Court for necessary relief in the manner recognized by law. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2

To

- 1.The Secretary to Government,
Commercial Taxes Department,
Fort. St.George, Chennai-9.
- 2.The District Registrar,
Chennai Central,
Chennai-18.
- 3.The Sub-Registrar,
Mylapore,
Santhome High Road,
Chennai-4.

W.P.No.15573 of 2003

MG (CO)
GN(28/10/2020)

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