

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.09.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

WP No.6332 of 2020

Denver Andrew Camoens

.... Petitioner

Vs.

1. The Inspector General of Registration,
Registration Department,
Santhome High Road,
Mylapore, Chennai - 4

2. The Sub Registrar,
Madhavaram, No.7, Roja Nagar,
Madhavaram, Chennai 60

3. Ms.Aparna mittra

...Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Madamus calling for the records relating to the impugned proceedings of the 2nd respondent dated 25.02.2020 in his proceedings of refusal number : RFL/Madhavam/1/12020 and quash the same and consequently, direct the 2nd respondent to register the Sale deed executed by the petitioner in favour of his mother Mrs.Syvia Camoens and the same sale Deed is submitted by the petitioner before the 2nd respondent for the registration as Power of Attorney agent of the 3rd respondent by the Power of Attorney dated 20.01.2011 registered on the file of SRO, Sembium as Document No.97 of 2011 by accepting the order dated 02.08.2011 passed in OP No.191 of 2011 on the file of the I Additional Family Court, Chennai without insisting the life certificate from the 3rd respondent within a stipulated period fixed by this Court.

For Petitioner :

Mr.R.Amizhhu

For Respondents :

Mr.T.M.Pappiah

Special Government Pleader
for R1 and R2

ORDER

This writ petition has been filed challenging the refusal check slip issued by the 2nd respondent dated 25.02.2020 and for a consequential direction to the 2nd respondent to register the document presented by the petitioner without insisting for the life certificate.

2. The case of the petitioner is that he is presently working in Australia and the subject property was jointly purchased by the petitioner and the 3rd respondent. The 3rd respondent is none other than the wife of the petitioner. There was a break down in the marriage and the parties have filed a petition for dissolution of marriage by a mutual consent in OP No.191 of 2011 and the marriage was dissolved by a decree passed by the I Additional Famil Court, Chennai on 02.08.2011.

3. As per the terms of the mutual consent, the 3rd respondent had undertaken to execute any document that may be required to release her 50% share. Accordingly, the 3rd respondent executed a power of Attorney in favour of the petitioner through a registered document dated 20.01.2011.

4. The petitioner took steps to deal with the subject property. When he presented the document for registration, the 2nd respondent was insisting for the life certificate from the 3rd respondent. The petitioner has tried his best to get the life certificate from the 3rd respondent. According to the petitioner, the 3rd respondent is evading to give the life certificate. Therefore, left with no other alternative, the present writ petition has been filed before this Court.

5. Notice has been served on the 3rd respondent and her name has also been printed in the cause-list. The 3rd respondent is neither present in person nor through counsel during the video conferencing.

6. Heard the learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of respondents 1 and 2.

7. On a careful scrutiny of the records, it is seen that the 3rd respondent has specifically undertaken to execute any document that is required for the purpose of dealing with her 50% share in the subject property. That is the reason why the 3rd respondent has executed a power of Attorney in favour of the petitioner. For the reasons best known to the 3rd respondent, she is evading to give the life certificate to the petitioner. As a result of the same, the petitioner is not able to deal with the property.

8. In the considered view of this Court, taking into consideration the peculiar facts of the present case, the petitioner has to file an affidavit before the 2nd respondent giving the present address of the 3rd respondent and also specifically stating that she is alive. The 2nd respondent on receipt of the affidavit, shall proceed to register the Sale deed submitted by the petitioner based on the Power of Attorney executed by the 3rd respondent in favour of the petitioner on 20.01.2011, if it is otherwise in order and the necessary stamp duty and registration fees shall be paid by

the petitioner. The document shall also be released after the registration.

9. This writ petition is allowed with the above directions.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Registration Department,
Santhome High Road,
Mylapore, Chennai - 4

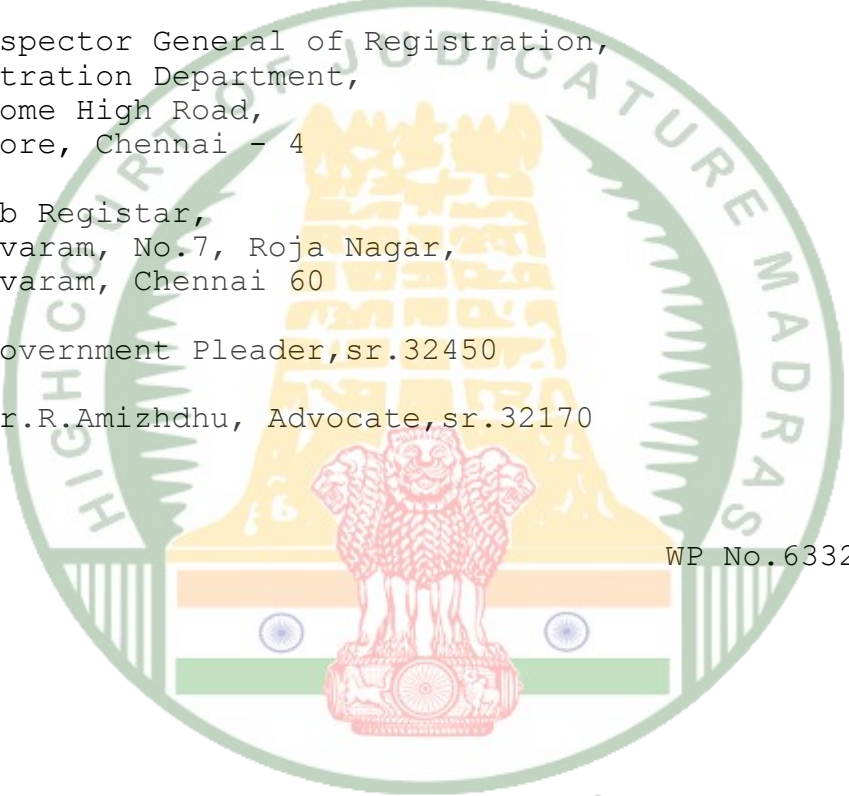
2. The Sub Registrar,
Madhavaram, No.7, Roja Nagar,
Madhavaram, Chennai 60

+1 cc to Government Pleader, sr.32450

+1 cc to Mr.R.Amizhdhu, Advocate, sr.32170

ajs(co)
krd 3/11

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