



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD) No.11870 of 2020

and

W.M.P. (MD)No.10278 of 2020

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Mookkammal

... Petitioner

Vs.

1.The Joint Sub Registrar-I,
Madurai South, Madurai.

2.Pandiyammal

3.Anand

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent dated 06.08.2020 in தாவா ஆணை எண். 21/2020 and set aside the same and consequently, direct him not to register any sale deed or any other document if presented by the second and third respondents in respect of western side 1 acre punja land out of 4 acre 13 cents comprised in New Survey No.7/2, its patta No.201 located in Thanakkankulam Village, Madurai South Taluk, Madurai District.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.K.Sathiyasingh,

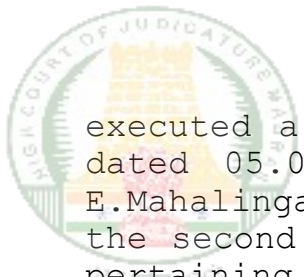
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order passed by the first respondent in jhth Miz vz;. 21/2020, dated 06.08.2020 and further to direct the first respondent not to register any sale deed or any other document, presented by the second and third respondents in respect of western side 1 acre punja land out of 4 acre 13 cents comprised in New Survey No.7/2, its patta No.201, located in Thanakkankulam Village, Madurai South Taluk, Madurai District.

2.Mr.K.Sathiyasingh, learned Additional Government Pleader takes notice for the first respondent. By consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner is that the petition mentioned property belongs to the second and third respondents, who have



executed a registered General Power deed in document No.3844/2008, dated 05.09.2008 in favour of the petitioner's husband, namely, E.Mahalingam, receiving a sum of Rs.12,50,000/-. On the same day, the second and third respondents handed over all original documents pertaining to the property and also the physical possession of the property to the petitioner's husband. Further, the petitioner's husband died on 28.08.2010 due to road accident. After his demise, the petitioner is in possession and enjoyment of the said property. As after, the demise of the petitioner's husband, the power deed executed in his favour has become invalid, the petitioner requested the respondents 2 and 3, who are her relatives, to execute a sale deed in her favour, they refused to register the sale deed in favour of the petitioner and also refused to return the sale consideration of Rs.12,50,000/-, which was given by the petitioner's husband. Hence, the petitioner has made an objection before the Sub Registrar that if any document presented by the second and third respondents for registration, the same shall not be registered in view of the aforesaid fact.

4.However, the first respondent has sent the impugned communication stating that there is no provision under the Registration Act not to register a document on the aforesaid ground and therefore, the objection of the petitioner cannot be considered.

5.The learned counsel for the petitioner submitted that the petitioner's husband obtained general power deed in document No.3844/2008, dated 05.09.2008 in respect of the petition mentioned property, who died on 28.08.2010, due to road accident. He further submitted that now the respondents 2 and 3 are refusing to register a sale deed in respect of the petition mentioned property in favour of the petitioner. Hence, the petitioner filed this present writ petition for the aforesaid relief.

6.The learned Additional Government Pleader appearing for the first respondent would submit that as per Rule 55 of Tamil Nadu Registration Rules, the registering authority has power to enquire and reject the document. The Rule 55 of Tamil Nadu Registration Rules, which reads as follows:

It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but, he is bound to consider objections raised on any of the grounds stated below:

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;
- (b) that the document is forged;
- (c) that the person appearing as a representative,



assign or agent, has no right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic.

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7. It is the contention of the petitioner that the respondents 2 and 3 have committed fraud and in fact the third respondent has committed cheating by way of presenting forged document and therefore, the petitioner raised objection, but, the said objection of the petitioner was not considered by the official respondent by citing the reasons that there is no provision under the Act for refusing any document presented for registration and therefore, he filed this present writ petition.

8. Heard the the learned counsel on either side and also perused the materials placed on records.

9. It is the case of the petitioner that the respondents 2 and 3 had executed a registered power of attorney deed in document No.3844 of 2008, dated 05.09.2008 in favour of the petitioner's husband, namely, E.Mahalingam, on receipt of Rs.12,50,000/-. The petitioner's husband died on 28.08.2010, in a road accident and thereafter, the second and third respondents, in spite request refused to execute a sale deed, based on the aforesaid power deed executed by them. The petitioner also states that after the demise of her husband, the second and third respondents assured to execute sale deed in her favour but, now they have refused to come forward to execute sale deed and made an attempt to sell the property in favour of third parties and after coming to know that, the petitioner made an objection before the first respondent by the same has been rejected by the first respondent stating that the the petitioner has to approach the civil Court for seeking the remedy.

10. A perusal of Rule 55 of Tamil Nadu Registration Rules would make it clear that the first respondent has rightly rejected the objection of the petitioner and advised her to approach the civil Court to seek remedy. The objection of the petitioner is that the second and third respondents have made an attempt to sell the property and thereby cheated the petitioner. On this ground the petitioner has to approach the civil Court and establish her case by adducing oral and documentary evidence. Therefore, the said objection of the petitioner cannot be considered under Article 226 of the Constitution of India and further, it is also not covered under Rule 55 of the Tamil Nadu Registration Rules and also the Circular issued by the Inspector General of Registration Letter



No.41530/U1/2017, dated 09.04.2018. There is no merit in the writ petition and the same is liable to be dismissed.

11. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Joint Sub Registrar-I,
Madurai South, Madurai.

+1 CC to M/s.GP (SR-17292[F] dated 17/09/2020)

W.P. (MD) No.11870 of 2020
and

W.M.P. (MD) No.10278 of 2020
17.09.2020

RG (CO)

KK (07.10.2020) 4P 3C