



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.12501 of 2016

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Singh @ Kandasamy Thevar

.. Petitioner

Vs.

1.The District Revenue Officer,
District Revenue Office,
Madurai.

2.The Revenue Divisional Officer,
Usilampatti, Madurai.

3.The Tahsildar,
Tirumangalam Taluk,
Madurai District.

4.V.Mokkiyan

5.s.Rathinasamy

6.S.Balakrishnan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records from the 1st respondent in the order passed in Ne.Mu.No.G2/62582/2015, dated 30.12.2015 and quash the same and consequently direct the 3rd respondent to issue patta in favour of the petitioner for the property situated in Survey No.249/3 (1.40 Acre), new survey No.249/3A to an extent of 0-54-07 ares at K.Puliyankulam Village, Thirumangalam Taluk, Madurai District.

For Petitioner

: Mr.K.Gokul

For Respondents

: Mr.A.Thiyagarajan, Government Advocate
for R1 to R3

Mr.D.Gandhiraj for R5

No Appearance for R4 and R6

ORDER

This writ petition has been filed by the petitioner for issuing a Writ of Certiorarified Mandamus, calling for the records from the 1st respondent in the order passed in Ne.Mu.No.G2/62582/2015, dated 30.12.2015 and quash the same and consequently direct the 3rd respondent to issue patta in favour of the petitioner for the property situated in Survey No.249/3 (1.40 Acre), new survey No.249/3A to an extent of 0-54-07 ares at K.Puliyankulam Village, Thirumangalam Taluk, Madurai District.

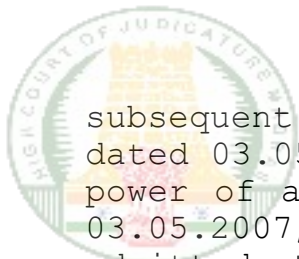


2.The brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner is the absolute owner of property measuring an extent of 1 acre 40 cents in S.No.249/3, which is now sub divided as 249/3A measuring an extent of 0.54.07 ares in K.Puliyankulam Village, Thirumangalam Taluk, Madurai District. The petitioner executed a power of attorney deed on 01.09.1986 in favour of one S.Jeyaram (in respect of 1 Acre 40 cents in S.No.249/3 and 23 cents in S.No.249/10). It appears that the power deed was coupled with interest. The learned counsel appeared for the fifth respondent has produced before this Court a sale receipt showing that a sum of Rs.53,790/- had been received by the petitioner himself from the Power of Attorney Jeyaram.

3.The learned counsel appearing for the fifth respondent has submitted that a sale deed has been executed by the Power of Attorney agent in favour of the sixth respondent on 24.09.1986. Thereafter, the petitioner cancelled the power of attorney deed and the cancellation of power of attorney deed was also presented for registration on 03.05.2007. Since the power agent who got power under the document, dated 01.09.1986 executed a sale deed, the conveyance was acted upon and the purchaser of property namely the sixth respondent executed a power of attorney deed on 09.01.2008 in favour of the fourth respondent in the writ petition. Thereafter, the fourth respondent executed a sale deed, dated 18.02.2008 in favour of the fifth respondent. Patta was also issued to the fifth respondent. Thereafter, the petitioner filed an appeal before the second respondent and the second respondent allowed the appeal on 20.07.2013 on the ground that the petitioner has filed a criminal complaint against the original power of attorney agent alleging fraud and forgery and that thereafter patta should be restored in favour of the petitioner. Thereafter the respondents 4 and 5 in the writ petition preferred a revision before the first respondent and the first respondent allowed the revision petition by order, dated 30.12.2015. Since the respondents 5 and 6 were not heard by the second respondent who disposed of the appeal only on the basis of the document furnished by the petitioner, the first respondent after holding that the petitioner had executed a power of attorney deed in favour of the said Jayaram on 01.09.1986 and that the said power of attorney was acted upon to execute subsequent sale deeds allowed the revision. The subsequent transactions were held to be legal. The first respondent also found that encumbrance certificate and other documents filed by the petitioner would show that order of second respondent is vitiated for the failure to consider appropriate documents. Aggrieved by the same the petitioner has preferred the above writ petition.

4.The petitioner mainly relied upon the police complaint given by the him alleging fraud and forgery against the original power of attorney deed. However, the petitioner has not denied the



subsequent cancellation of power of attorney deed by a document, dated 03.05.2007. The petitioner has registered the cancellation of power of attorney deed. From the recitals in the documents, dated 03.05.2007, it is seen that the petitioner has categorically admitted the execution of the power deed in favour of Thiru S.Jeyaram, on 01.09.1986. Hence, the contention of the petitioner that the power of attorney was fraudulently created by the power of attorney agent and that the subsequent sale deed executed by the power of attorney is void, cannot be accepted. The District Revenue Officer considered the documents and admitted facts before holding that the order of Revenue Divisional Officer is not sustainable. The findings of the first respondent in relation to the transactions cannot be assailed as valid reasons are assigned by the first respondent. The first respondent has also given liberty to the petitioner to approach the civil court in case the petitioner has any grievance. Considering the nature of dispute, prima facie any one will get an impression that the petitioner has come before this Court by suppressing material facts that he had admitted the execution of the power of attorney deed while cancelling the said power of attorney deed on 03.05.2007. Even if the petitioner has any valid explanation, this Court or the Revenue officials may not consider the plea raised by the petitioner to invalidate several registered documents.

5.Hence, giving liberty to the petitioner to file a civil suit to establish his case regarding the validity of the power of attorney deed, dated 01.09.1986, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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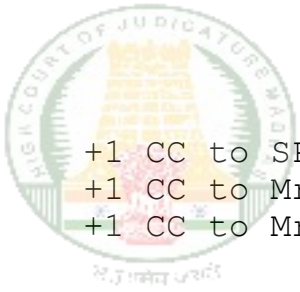
To

1.The District Revenue Officer,
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2.The Revenue Divisional Officer,
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3.The Tahsildar,
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Madurai District.

<https://hcservices.mca.gov.in/Disputes/>



+1 CC to SPL.GP (SR-1359[F] dated 10/01/2020)
+1 CC to Mr.D.GANDHIRAJ, Advocate (SR-1678[F] dated 13/01/2020)
+1 CC to Mr.K.GOKUL, Advocate (SR-1876[F] dated 13/01/2020)

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