



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.02.2020
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.441 of 2016

WEB COPY

Sundara Konar

.. Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinampakkam,
Chennai - 600 001.

2.The District Registrar,
29, Masilamanipuram III Street,
Tuticorin - 3.

3.The Sub Registrar,
Joint - 1,
29, Masilamanipuram III Street,
Tuticorin.

4.M.Deepak

5.A.Nalla Thanga Anaudha Thirumani

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the second respondent to consider the representation of the petitioner dated 15.12.2015 to cancel the registration of sale deed No.2540/15, dated 30.09.2015 and pass orders within a stipulated time fixed by this Court.

For Petitioner : Mr.B.N.Rajamohamed
For Respondents : Mr.A.Muthukaruppan
1 to 3 Additional Government Pleader
For Respondents 4&5 : Mr.G.Prabhu Rajadurai

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus directing the second respondent to consider the representation of the petitioner dated 15.12.2015 to cancel the registration of the sale deed dated 30.09.2015.

2.Heard the learned Counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned Counsel appearing for the respondents 4 and 5.

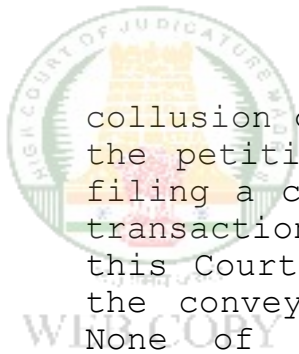


3.The brief facts that are necessary for the disposal of the Writ Petition are as follows:

3.1.The petitioner states that he was in possession of an extent of 10 cents of property bearing Survey No.3981 with a building bearing Door Nos.72, 72A, 72B, 72C and 72D in Tooveepuram 10th Street, within Tuticorin Municipal Corporation. The property, according to the petitioner, was purchased by him on 12.12.1973. The petitioner admits that after the demise of his wife Muthammal, there was a dispute in his family and a suit for partition in O.S.No.427 of 2015 came to be filed at the instance of his children. The suit is still pending. The case of the petitioner is that the respondents 4 and 5 offered the petitioner a sum of Rs.55,00,000/- (Rupees Fifty five lakhs only) to purchase the property and that a sale agreement dated 11.06.2015 was entered into. Though the petitioner admit that he received advance of Rs.8,50,000/- on 11.06.2015 and another sum of RS.10,00,000/- on 14.09.2015, stated that his signature was obtained by respondents 4 and 5 in some documents under the pretext of getting acknowledgement from the petitioner for receipt of the advance amount. However, the petitioner realised that the respondents 4 and 5 have fabricated the same as if the petitioner executed a general power of attorney in favour of the fifth respondent which also came to be registered in the third respondent's office on 14.09.2015. The petitioner admits that using the power of attorney deed dated 14.09.2015 the fifth respondent has sold the property by another registered sale deed in favour of one R.Sivakumar and the said document is registered. It is in these circumstances, the petitioner has submitted a representation before the respondents 1 to 3 and to cancel the registration of the sale deed dated 30.09.2015 executed by the fifth respondent.

4.Though the respondents 4 and 5 have not filed any counter, the learned Counsel appearing for the respondents 4 and 5 submitted that the transaction, as alleged by the petitioner, is not true and that there was no fraud or collusion or misrepresentation committed by the respondents 4 and 5 at any point of time.

5.This Court exercising power under Article 226 of the Constitution of India cannot decide or resolve the issue involving disputed questions of fact. The admitted fact in this case is that the power of attorney deed has been executed by the petitioner and registered. Based on the power of attorney deed which was acted upon, the agent executed a subsequent sale deed in favour of the third party and the third party is not a party before this Court and there cannot be any adjudication involving the rights of the parties without impleading the third party to the proceedings. The Registrar or any appellate or revisional authority is not competent to decide the validity of documents on the basis of the statement of



collusion or misrepresentation. The nature of contentions raised by the petitioner in the present Writ Petition have to be raised by filing a civil suit seeking declaration as to the character of the transaction. Since the petitioner is a party to the transaction, this Court or the registering authority are expected to think that the conveyance has taken place as per the registered instrument. None of the provisions of the Registration Act enables the registering officer to cancel the registration on the ground of fraud, collusion or misrepresentation. In such circumstances, no relief can be granted to the petitioner in the present Writ Petition. Hence, this Writ Petition is dismissed. No costs. However, liberty is given to the petitioner to approach the Civil Court in the manner known to law.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinampakkam,
Chennai - 600 001.

2.The District Registrar,
29, Masilamanipuram III Street,
Tuticorin - 3.

3.The Sub Registrar,
Joint - 1,
29, Masilamanipuram III Street,
Tuticorin.

+1 CC to SPL.GP (SR-6135[F] dated 13/02/2020)

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-6150[F] dated 13/02/2020)

ORDER MADE IN
W.P. (MD).No.441 of 2016
12.02.2020

MK (19.02.2020) 3P 6C