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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18834 of 2021

Shajunnisa Begum alias Shajunnisa Yacoob

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Mandavalipakkam,
Raja Annamalaipuram,
Chennai - 600 028.

2.The District Collector,
Collector Office,
GST Road,
Chengalpattu District - 603 001.

3.The Sub Registrar,
Thirukazhukundram,
8/45, Kammala Street,
Thirukazhukundram - 603 109.

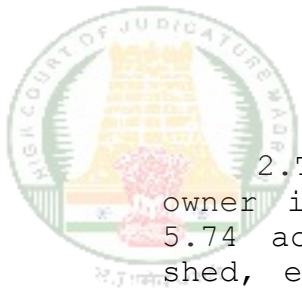
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to consider the representation dated 23.07.2021 pending before him, within a time frame fixed by this Court.

For Petitioner : Ms.Shaikh Mehrunisa
For respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This petition has been filed for a mandamus to direct the first respondent to consider the representation dated 23.07.2021 within a time frame.



2.The case of the petitioner is that she is the absolute owner in respect of the property measuring a total extent of 5.74 acres together with borewell and 5 HP motor, pump-set, shed, electricity connection and the farm house with RCC roof, punja lands comprised in Survey No.257, Patta No.264, Pudupattinam Village, Thirukazhukundram Taluk, Kancheepuram District having purchased the same by way of Sale Deed dated 12.07.1995 registered as Document No.1871/1995 and right from the date of purchase, she is in possession and enjoyment of the suit property having paid the entire statutory charges to the revenue authorities and also having electricity connection in her name.

3.The petitioner submits that due to old age and it is not possible for her to maintain the suit property, she had executed Power of Attorney dated 26.08.2017 registered as Document No.2773/2017 before the SRO, Thirukazhukundram in favour of A.Kuthbutheen and given various powers including power to sell the suit property and also specifically mentioned in the said Power of Attorney that Power Agent has to give proper accounts to her for the amount received by him but the said Power of Attorney is not supported by any consideration.

4.The petitioner further submits that it was brought to her knowledge that the Power Agent had taken steps to bring the suit property for sale by finalising the sale jointly with Mr.S.Ameer Hamsa and to place the sale deed before the third respondent by violating all the norms and conditions mentioned in the power document, without her consent and knowledge.

5.According to the petitioner, an objection was raised on 29.09.2020 with the third respondent not to proceed with the registration of the deed presented by the Power Agent in collusion with the purchasers in respect of the property based on the Power of Attorney, raising the objection to the effect that the power agent did not inform with regard to the total sale consideration and no consideration was received by her.

6.The petitioner submits that once again on 08.12.2020 she raised an objection to the third respondent from proceeding with the sale of the suit property by the Power Agent and she had sent a letters to the third respondent on 29.09.2020 and 08.12.2020 wherein she had requested the third respondent and raised objection with regard to the non-furnishing of accounts by the Power Agent and therefore she requested the third respondent not to proceed with the sale of the suit property initiated by the Power Agent.



7. According to the petitioner, on 25.01.2021, she presented a cancellation of power deed to the third respondent and the same was received by him and the third respondent with regard to cancellation of power deed conducted on enquiry with both her and the Power Agent on 08.02.2021. According to the petitioner, enquiry conducted was biased and none of the alleged documents were not even shown to her, neither any copies were furnished to her till date.

8. The petitioner submits that without her consent and knowledge, the Power Agent and the purchasers have presented a Sale Deed on 20.11.2020 before the third respondent for sale of the suit property which would clearly establish the fraudulent intention of them in defrauding her with regard to the non-payment of the sale consideration to her.

9. The petitioner further submits that the averments made in the Sale Deed shows that the total consideration was Rs.1,20,00,000/- and out of which the Power Agent and purchasers claim Rs.1,15,00,000/- was adjusted towards her alleged dues which was borrowed from various financiers and which was paid by them towards discharge of dues and the balance of Rs.5,00,000/- was paid in instalments by way of two cheques, viz. Cheque No.112696 drawn from the Central Bank, Royapuram Branch for Rs.2.5 lakh and other Cheque No.000070 drawn from HDFC Bank each for Rs.2.5 lakhs (allegedly paid to the petitioner by the purchasers) as allegedly mentioned in the sale deed Document No.685/2021.

10. According to the petitioner, without considering the objections and explanation raised by her, the third respondent had concluded against the cancellation of power by way of passing order through his refusal check slip dated 10.02.2021 that the Power of Attorney executed by her in favour of the Power Agent is executed for a valuable consideration for which the Power Agent had produced certain documents for payment to her even prior to the execution of the Power of Attorney.

11. The petitioner submits that as per the said order dated 10.02.2021, the third respondent had given 30 days time to her to prefer an appeal before the second respondent against the order passed by the third respondent. According to her, when the fact is that no money was received by her as alleged by the Power Agent and purchasers by way of cash/DD/Cheque/RTGS etc. she had not borrowed any money from anyone till date neither she is aware of any debts/liabilities of her deceased husband till date.

12. The petitioner further submits that on 21.02.2021 she had sent an email to the second and third respondents, RDO and the



Tahsildar of Thirukazhukundram raising objections with regard to the order passed by the third respondent on 10.02.2021 to proceed with the registration of the sale deed

13. According to the petitioner, execution of sale is taken place based on the forged life certificate alleged to have been on 05.02.2021 is nothing but a fraud played by the private respondents in bringing the suit property for registration by defrauding her by forging life certificate as if it was issued on 05.02.2021 which is a clear case of fraud and collusion of the private persons including the SRO and committed illegality in proceeding with the registration of the sale deed.

14. According to the petitioner, she is in possession of the suit schedule property and even after the alleged sale deed, she continued to be in possession and enjoyment of the suit property.

15. The petitioner submits that based on the illegal sale deed executed in their favour, the Power Agent and the purchasers are now taking illegal steps to evict her from the suit property and accordingly, on 23.03.2021 they have taken steps to enter the suit property and caused damaged to the motor kept in the suit property and when it was questioned, the Power Agent and the purchasers verbally abused her and her son. According to her, police complaint had given on 23.03.2021 for which Kalpakam Police had issued CSR.

16. According to the petitioner, she had sent a representation dated 23.07.2021 to the first respondent for cancellation of the sale deed registered as Document No.686/2021 on 10.02.2021 and direct the third respondent to register the cancellation of power deed pending Document No.10/2021 dated 25.01.2021, though the representation was received by the first respondent on 26.07.2021, she had not received any summons or any other communication from the first respondent till date.

17. The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

18. Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

19. On going through the typed set of papers, it is seen that the petitioner is in possession and enjoyment of the suit property having paid the entire statutory charges to the revenue authorities and also having electricity connection in petitioner's name. According to the petitioner, execution of



sale is taken place based on the forged life certificate alleged to have been on 05.02.2021 is nothing but a fraud played by the private respondents in bringing the suit property for registration by defrauding her by forging life certificate as if it was issued on 05.02.2021 which is a clear case of fraud and collusion of the private persons including the SRO and committed illegality in proceeding with the registration of the sale deed.

20.This Court is of the view that no original documents have been produced by the Power of Attorney and the documents produced by him where the petitioner is in possession of the same and the authorities are directed to verify the original documents which has not been done in this case.

21.In view of the above facts and circumstances of the case and the submissions made by the petitioner, this Court is of the view that the first respondent is hereby directed to consider the representation dated 23.07.2021 sent by the petitioner and shall pass appropriate orders in accordance with law, after giving sufficient opportunities to the parties concerned, within a period of five months from the date of receipt of a copy of this order.

22.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Mandavalipakkam,
Raja Annamalaipuram,
Chennai - 600 028.
2. The District Collector,
Collector Office,
GST Road,
Chengalpattu District - 603 001.



3. The Sub Registrar,
Thirukazhukundram,
8/45, Kammala Street,
Thirukazhukundram - 603 109.

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+1CC to Mr.Government Pleader, Sr.No.45898

W.P.No.18834 of 2021

PMK (CO)

K.RK. (13.10.2021)

K.RK. (27.10.2021)