



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.17653 of 2021
W.M.P.Nos.18805 and 18810 of 2021

S. Selvi

...Petitioner

Versus

1. District Registrar,
Cuddalore District.
2. The Sub-Registrar,
Kullanchavadi SRO Office,
Cuddalore District.
3. P. Sudharsan

...Respondents

This 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 of refusal check slip issued by the 2nd respondent reference no. RFL/Kullanchavadi/14/2021 Sub-Registrar, Kullanchavadi dated 29.07.2021 in refusing to register the power of attorney dated 29.07.2021 and quash the same as illegal, arbitrary, opposed to statute, rules framed thereunder, without jurisdiction and violative of audi alteram partem and further direct the 2nd respondent to register the said power of attorney, within a time frame as may be fixed by this Court.

For Petitioner	: Mr. R. Veeramani
For R1 and R2	: Mr. K. M. D. Muhilan
	Government Advocate

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of refusal check slip issued by the 2nd respondent reference no. RFL/Kullanchavadi/14/2021 Sub-Registrar, Kullanchavadi dated 29.07.2021 in refusing to register the power of attorney dated 29.07.2021 and quash the same as illegal, arbitrary, opposed to statute, rules framed thereunder, without jurisdiction and violative of audi alteram partem and further direct the 2nd respondent to register the said

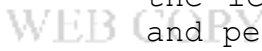


power of attorney, within a time frame as may be fixed by this Court.

2. According to the petitioner, a suit in O.S.No.827 of 1993 was filed on the file of District Munsiff Court, Panruti which was decreed as prayed for. Being a co-sharer, the petitioner filed Execution Petition in E.P.No.10 of 2013 and got her share of the property measuring 2.86 acres of agricultural land in Survey No.41/2B at Sivananthipuram Village. Subsequently, she also got transferred patta in her name and mutation of revenue records was also effected. Thereafter, the petitioner decided to appoint a Power Agent to effectively manage protect the property and hence she appointed one Mr.S.G.M. Bhubesh by executing a power of attorney in his favour and it was presented for registration on 29.07.2021 in the office of the first respondent. However, the second respondent issued a refusal check slip stating that there is a civil suit pending in O.S.No.226 of 2019 on the file of the Principal District Judge, Cuddalore wherein the respondents 1 and 2 were also made as parties. Therefore, citing the same, the second respondent refused to register the power of attorney. Aggrieved by the said refusal, the petitioner has come forward with the present writ petition.

3. The learned counsel for the petitioner would submit that the impugned order passed by the second respondent refusing to registering the power of attorney presented by the petitioner is contrary to the provisions of the Registration Act and Rules made there under. He would submit that the civil suit pending in O.S.No.226 of 2019 was filed by the third respondent by colluding with his son and it has nothing to do with the petitioner's right over the subject matter in respect of which, she seeks to appoint power of attorney on her behalf. He would also submit that the petitioner wants to appoint power of attorney in respect of her share which was already adjudicated in a civil suit and delivered to her by the civil Court in execution proceedings. Therefore, there is no justification on the part of the second respondent to refuse the registration of the deed of power of attorney. Hence, the learned counsel seeks to quash the impugned order and to direct the second respondent to register the document.

4. On the other hand, the learned Government Advocate appearing for the respondents 1 and 2 would submit that as against the impugned order, the petitioner is having efficacious remedy by way of appeal under Section 72 of the Registration Act and the District Registrar is the competent authority to look into the matter and pass appropriate orders therein in accordance with law. However, without exhausting such remedy, the petitioner has filed the present writ petition which is not



5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents one and two and perused the materials available on record.

7. Section 72 provides for, "Appeal to the Registrar from orders of Sub- Registrar refusing registration on ground other than denial of execution"; the appeal is required to be preferred within 30 days from the date of the order and the Registrar is empowered to reverse or alter the order appealed against; if the Registrar directs the documents to be registered, the Sub Registrar is mandated to obey the same and register the document.

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9. With the above observation, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gbi

To

1. The District Registrar,
Cuddalore District
2. The Sub-Registrar,
Kullanchavadi SRO Office,
Cuddalore District.

+1cc to Mr.R.Veeramani, Advocate, S.R.No.42203
+1cc to the Government Pleader, S.R.No.42681

W.P.No.17653 of 2021

KSM(CO)

KKV/22/09/2021