

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.21318 of 2019

Andrew John Scott

...Petitioner

-Vs-

1.The District Registrar/Appellate Authority,  
Salem East, Salem -1.

2.The Sub-Registrar,  
Yercaud, Salem District, Salem-1.

3.The Sub-Registrar,  
Tharamangalam Salem District.

4.C.Chakravarthy

5.M.Palaniappan

6.M.Adaickappan

7.A.Meenal

8.M.Kannappan

9.K.Thennammai

10.PL.Murugappan

11.P.Meyappan

...Respondents

(R5 to R11 are residing at 22, Beverly Estate,  
Thalaisolai, Kottachedu Post, Yercaud, Salem 636 601

(R5 to R11 impleaded vide order dated 01.02.2021

made in W.M.P. No. 34207/2019 in W.P.No.21318/2019 by NSSJ)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.No.2118/A1/2019 dated 17.06.2019 and quash the same and direct the respondents 1 to 3 to register the Deed of Cancellation of Power of Attorney document No.2068 of 2017 dated 19.06.2017 on the file of SRO, Taramangalam presented by the petitioner.

For Petitioner : Mr.K.Gajendiran

For Respondents: Mr.T.M.Pappiah, SpL.G.P. For RR1 to3

Special Government Pleader

Ms.A.Sella Visalakshi for RR5 to 11

## ORDER

The issue involved in this case in short is as follows:

There is a block of property over which certain Palaniappan, who is now impleaded as 5<sup>th</sup> respondent by an order in WMP.No.34207 of 2019, claims title. Be that as it may, the petitioner herein has executed a Power of Attorney dated 19.06.2017 in favour of the 4<sup>th</sup> respondent. He now requires the Power of Attorney to be cancelled. The Sub Registrar refused it. Therefore, he moved the matter before the District Registrar. The District Registrar vide his order dated 21.12.2020 has indicated that the petitioner has to approach the Civil Court for cancelling the power of attorney.

2. Mr.T.M.Pappiah, learned Special Government Pleader takes notice for the respondents 2 to 4 and Ms.A.Sella Visalakshi, learned counsel takes notice for the respondents 5 to 11.

3. The learned Special Government Pleader drew the attention of this Court to the decision of the Hon'ble Supreme Court in "Satya Pal Anand vs State Of M.P. and others" [(2016) 10 SCC page 767] and submitted that the Sub-Registrar may not have the power to cancel the document which has already been registered. He also added that at any rate, if the Power of Attorney has to be cancelled, to protect the Sub-Registrar from the possibility of facing unnecessary litigation at the instance of the Power of Attorney, a notice at least may be served by RPAD to the said Power of Attorney.

4. Ms.A.Sella Visalakshi, learned counsel appearing for the respondents 5 to 11 argued that,

(a) These respondents are the owners of the property and the petitioner is no way connected with the property and that the Power of Attorney, which he has executed is a false document.

(b) If the Power of Attorney is now allowed to be cancelled then there is a great possibility that the said cancellation may enable the legitimate expectation of the Power of Attorney originally executed by the petitioner.

5. So far as the ratio laid down in "Satya Pal Anand vs State Of M.P. and others" [(2016) 10 SCC page 767] is concerned, where any document is registered by the Registering Authority, then the same may not be cancelled at the instance of the third party. Turning to the execution of the Power of Attorney, it is after all a document executed by a person appointing or nominating an agent. Every Principal has the authority to revoke agency except where the agency is coupled with some interest.

6.However, to avert any possibility of the Sub Registrar facing any litigation at the instance of the Power of Attorney of the petitioner, it may be necessary for the petitioner to issue a written notice to such Power of Attorney by RPAD since now-a-days parties launch criminal prosecution against the official even where they have bona fide discharged their statutory responsibility.

7.The learned counsel for the petitioner would now submit that the petitioner is ready to issue such necessary notice to his Power of Attorney through RPAD before proceeding with the document of 'Cancellation of Power of Attorney' before the Registering Authority. As far as the respondents 5 to 11 are concerned, it is made clear that the cancellation of Power of Attorney is in no way connected to them and it is not intended to legitimize the original Power of Attorney if the same is otherwise a false document as is being contended by the respondents 5 to 11. It is now for them to charter out their strategy in this regard.

8.In conclusion, this petition is disposed of, with a direction to the Sub-Registrar to register the 'Cancellation of Power of Attorney' document, which the petitioner is now seeks to present before the Registering Authority if it is accompanied by a proof of service of notice on his Power of Attorney. As and when the same is presented before the Sub-Registrar concerned, he may hold such necessary enquiry within the meaning of Section 34 of the Registration Act and proceed to register as expeditiously as possible. The right of the respondents 5 to 11 in challenging the 'Cancellation of Power of Attorney' document is now sought to be cancelled or their own right over the property is left open.

9.The Writ Petition is disposed of accordingly. No costs.

सत्यमेव जयते  
s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

dn  
To

1.The District Registrar/Appellate Authority,  
Salem East, Salem -1.

2.The Sub-Registrar,  
Yercaud, Salem District, Salem-1.

3.The Sub-Registrar,  
Tharamangalam Salem District.

+1 CC to Mr.K.Gajendiran, Advocate sr 7019.  
+1 CC to Mr. Balaji, Advocate sr 7264.  
+1 CC to The Government Pleader sr 7879.

W.P.No.21318 of 2019

AAB(CO)  
SP(12/03/2021)



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