

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.20466 of 2020
and W.M.P.Nos.25242 and 25243 of 2020

M.Mohamed Bathusha

...Petitioner

-Vs-

1. The District Registrar,
(Administration),
Nagappatinam District.

2. The Joint-1 Sub-Registrar,
Nagappatinam SRO Office,
Nagappatinam District.

3. S.Abdul Gafoor

4. Haja Mohideen

...Respondents

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 pertaining to the impugned order of refusal check slip issued by the 2nd respondent ref.No.RFL/1/Joint Sub-Registrar, Nagapattinam/27/2020 dated 13.10.2020 refusing to register power of attorney dated 22.07.2020 and as confirmed by the 1st respondent in an appeal vide impugned proceedings in ref Na.Ka.No.3000/A1/2020, dated 23.11.2020 and quash the same as illegal, arbitrary and violative of audi alteram partem and direct the 2nd respondent to register the said power of attorney dated 22.07.2020, within a time frame as may be fixed by this Court.

For Petitioner : Mr.R.Veeramani

For Respondents : Mr.T.M.Pappiah

Adl Government Pleader 1 & 2

ORDER

The core allegation in the case is that challenging an order of

Sub-Registrar to refuse the registration of Power of Attorney, the petitioner has moved the District Registrar in an appeal under Section 72 of the Registration Act. This has been disposed of but the grievance expressed by the petitioner is that he has not given an opportunity of being heard.

2. Mr.R.Veeramani, the learned counsel for the petitioner would submit that the first instance, the Sub-Registrar concerned did not appreciate the substantial law based on which the title of the party have to be understood, and at the second stage, the District Registrar, Appellate Authority has not given an opportunity to the petitioner to explain the same.

3. Heard Mr.T.M.Pappiah, the learned Special Government Pleader appearing for the respondents 1 and 2 and made a fair statement that to the extent he has received instructions from the Authorities, a fair opportunity of hearing is not seen to have been given. The learned Special Government Pleader also informed the Court that the District Registrar will be informed of the Court law by the law officer.

4. Inasmuch as hearing is not accorded not only to the petitioner but also by the respondents 3 and 4, who are likely to be affected by any decision that might be taken by the 1st respondent herein, it is necessary to set aside the impugned order of the 1st respondent dated 23.11.2020, and the matter is now remitted back to the 1st respondent, who would now issue notice to the petitioner and all other parties who are likely to be affected by his decision, and grant them a fair and effective hearing. During such hearing, the petitioner may canvass all his points as to how the Sub-Registrar may evaluate the title within the ambit of the Registration Act and the 1st respondent is required to dispose of this appeal within a period of eight(8) weeks from the date of receipt of a copy of this order.

5. This Writ Petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1. The District Registrar,
(Administration),

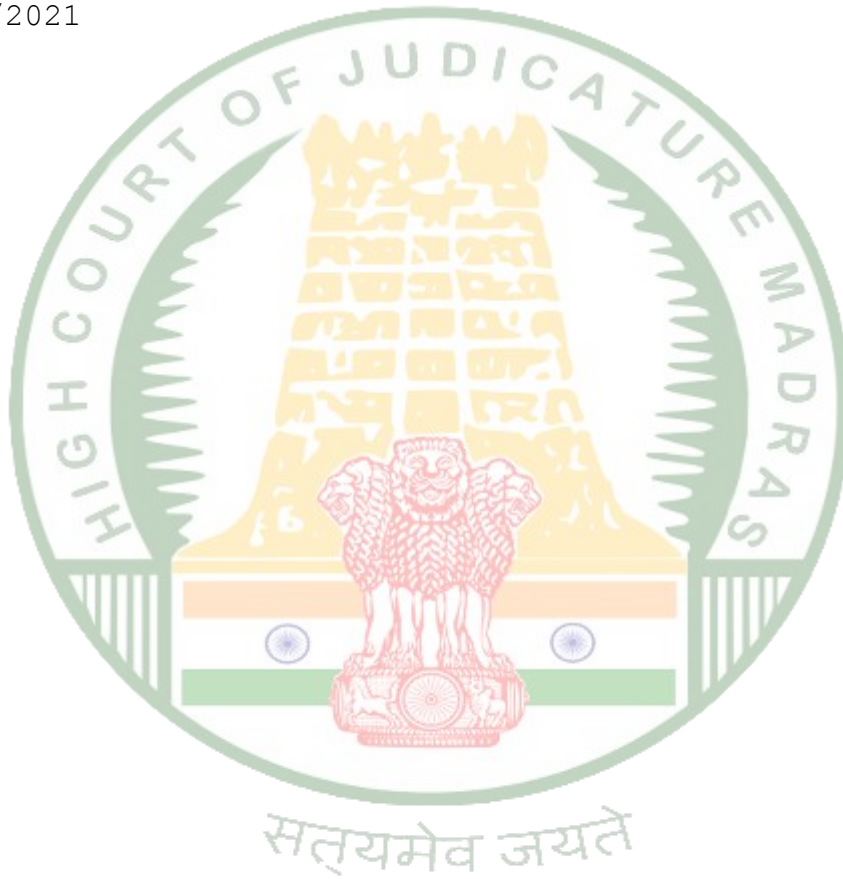
Nagappatinam District.

2. The Joint-1 Sub-Registrar,
Nagappatinam SRO Office,
Nagappatinam District.

+1cc to The Government Pleader, SR1647

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CO (BS)
BDL/20/01/2021



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