



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)Nos.2073 & 2076 of 2021

and

WMP(MD)Nos.1744 & 1747 of 2021

WEB COPY

P.Manimaran

... Petitioner
in both writ petitions

Vs.

1.The Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam, Chennai - 600 028.

2.The Joint Sub Registrar No.IV,
Madurai.

3.A.Subbiah

... Respondents
in both writ petitions

Common Prayer: Writ petitions are 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 refusal check slip in RFL/Joint Sub Registrar No.4 Madurai South/Book2/1/2021 and South/Book2/2/2021 dated 22-01-2021 passed by the second respondent and quash the same and consequentially directing him to register the deed of cancellation of power of attorney dated 20-01-2021 executed by the petitioner cancelling the registered deed of general power of attorney dated 22-11-1999 in favour of the 3rd respondent bearing Document Nos.669 & 670/1999 in Book 4 on the file of the 2nd respondent.

in both cases :

For Petitioner : Mr.J.Barathan
for T.R.Jeyapalam

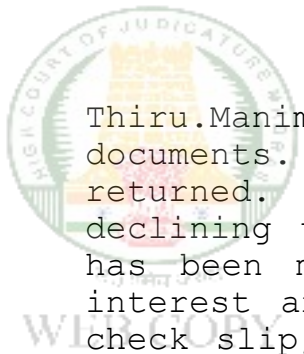
For Respondents : Mr.K.Sathyasingh for R1 & R2
Additional Government Pleader
Ms.Sepana @ Sree.P. for R3

COMMON ORDER

Heard the learned counsel on either side.

2.Thiru.P.Manimaran had executed two documents dated 22.11.1999 conferring power on Thiru.A.Subbiah, the third respondent in the writ petitions to deal with the property described therein. Both the documents were registered as Document Nos.669 and 670 of 1999 on the file of the Joint Sub Registrar No.IV, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



Thiru.Manimaran the principal wanted to cancel the said two documents. When the cancellation deeds were presented, they were returned. The respondent authority issued the impugned check slips declining to register the deeds of cancellation. In one slip, it has been mentioned that the power of attorney is coupled with interest and that therefore, it cannot be revoked. In the other check slip, it is stated that since the power of attorney has not been notified about the cancellation, the document will not be registered. Challenging the aforesaid refusals, these two writ petitions have been filed.

3.The learned Additional Government Pleader appearing for the registering authority submitted that the orders refusing to register the documents are very much appealable and that therefore, the writ petitions may not be entertained.

4.The learned counsel for Thiru.Subbiah submitted that since there are serious disputes between the parties, the petitioner may be relegated to move the jurisdictional civil court and that this Court may refrain from interfering at this stage. He also wanted this Court to sustain the impugned refusals in the light of the reasons set out in the check slips.

5.I have carefully considered the rival contentions and went through the materials on record. As rightly pointed out by the learned counsel appearing for the registering authority, the registering authority can decline to register the documents presented for registration for the reasons set out in Section 34 of the Registration Act, 1908. Section 34 of the Act reads as under: 6.

"34.Enquiry before registration by registering

officer.- (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, and in the case of document for sale of property, the persons claiming under that document or their representatives, assigns or agents authorised as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26 :

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2)Appearances under sub-section (1) may be



simultaneous or at different times.

(3) The registering officer shall thereupon-

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document or they are claiming under the document and (c)

in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders."

6. In the case on hand, none of the circumstances set out in (a) to (c) of Section 34 (3) are fulfilled. It is not the case of the respondents that the petitioner had indulged in any act of impersonation or fraud. All that the petitioner wants is to present the two documents for cancelling the power of attorney executed in the year 1999. The reasons set out in the impugned check slips do not fall within the scope of Section 34 of the Act.

7. In this view of the matter, the impugned check slips are quashed. The writ petitions are allowed. The petitioner is directed to re-present the documents of cancellation before the registering authority. Subject to the fulfilment of other formalities, the registering authority shall register the same. Even though the petitioner is having the remedy of statutory appeal, in as much as the impugned refusals are patently without jurisdiction, the petitioner is justified in invoking the writ jurisdiction of this Court. If according to the third respondent, the power of attorney granted in his favour is coupled with interest and therefore, not revocable, he could have moved the jurisdictional civil court and obtained an order of injunction restraining the registering authority from registering any document of cancellation. So long as the third respondent has not obtained any order of injunction, the registering authority cannot refuse to register the document in question. No costs. Consequently, connected miscellaneous petitions are closed.

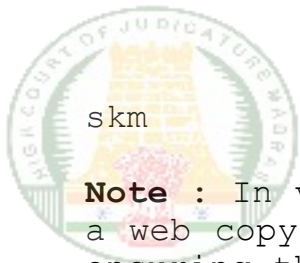
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate, Pattinapakam, Chennai - 600 028.

2.The Joint Sub Registrar No.IV,
Madurai.

+2 CC to M/s.P.SEPANA@SREE, Advocate (SR-13694 & 13765[F] dated 25/03/2021)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-13765[F] dated 25/03/2021)

**WP (MD) Nos.2073 & 2076 of 2021
24.03.2021**

AC (CO)

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