



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD)No.4753 of 2021
and
W.M.P. (MD)No.3866 of 2021

M.Chokkalingam : Petitioner

Vs.

1.The Inspector General of Registration,
Inspector General of Registration Office,
No.100, Santhome High Road,
Rajaannamalaipuram, Chennai-600 028.

2.The District Registrar,
Registrar Office, Karaikudi, Sivagangai District.

3.The Sub Registrar,
Sub Registrar Office-Joint No.II,
Karaikudi, Sivagangai District.

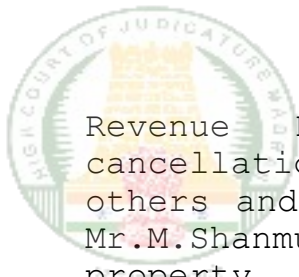
4.SM.Sanmugavel : Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Declaration, to declare that Power Cancellation deed dated 07.10.2016 registered as Document No.5595/2016 on the file of the third respondent is null and void and consequently to direct the third respondent to remove the entry made as Document No.5595/2016 in book No.IV on the file of the third respondent, namely, the Sub-Registrar, Sub Registrar Office, Joint-II, Karaikudi, Sivagangai District in accordance with law.

For Petitioner :Mr.K.Lavan
For R1 to R3 :Mr.K.Sathiya Singh
Additional Government Pleader

ORDER

It is the case of the petitioner that the fourth respondent has executed a General Power of Attorney jointly in favour of the petitioner and one K.Thiyagarajan, in respect of subject property and the same was registered as Document No.53 of 2014 on the file of the Sub Registrar, Karaikudi, Sivagangai District. After the execution of the General Power of Attorney, dated 24.06.2014, the petitioner and the other agent filed an application before the



Revenue Divisional Officer, Devakottai on 09.07.2014 for cancellation of patta wrongly issued in favour of one Saroja and others and to issue patta in favour of the petitioner's principal, Mr.M.Shanmugaval, the fourth respondent herein, for the subject property. An enquiry was conducted and on conclusion of the same, on 06.09.2016, an order was passed by the Revenue Divisional Officer directing the petitioner to file an appeal before the Assistant Settlement Officer, if they wanted any relief.

2.While the matter stood thus, the fourth respondent without giving any notice to the petitioner, unilaterally executed a cancellation deed, dated 07.10.2016 before the third respondent and cancelled the power granted to the petitioner and one N.Thiyagarajan. Without knowing the cancellation of power deed, the petitioner appears to have filed an appeal before the Assistant Settlement Officer on 11.02.2020 as against the order of patta transfer, dated 31.07.2014 passed by the Karaikudi Special Tahsildar, Town Land Tax Scheme. In response to his appeal, the petitioner has also received enquiry notice from the Assistant Settlement Officer on 02.12.2020. Thereafter, vide proceeding, dated 24.12.2020, a memo was issued by the Assistant Settlement Officer stating that the power of attorney was already cancelled and therefore, the petitioner's name stood removed from the appeal. In the above circumstances, the petitioner has come up with the prayer in the Writ Petition to declare the cancellation deed, dated 07.10.2016 as null and void.

3.This Court is unable to understand as to how a Writ Court to be converted into a full fledged Civil Court by seeking declaration of cancellation deed. In the affidavit, the petitioner has traced back the transfer of subject property right from the year 1950. Number of transactions appear to have happened in regard to the subject property, viz., a Court auction sale, inheritance etc, and finally a power was executed in favor of the petitioner in 2014.

4.In that view of the matter, the proper course of remedy for the petitioner is to approach the Civil Court to have the cancellation of deed set aside and certainly, this Court's jurisdiction cannot be extended to declare any registered document as null and void in exercise of its writ jurisdiction. It is needless to mention that in the exercise of power for declaring a document to be null and void, it requires investigation of facts who coming to a conclusion and also it requires lengthy adjudication of factual controversies, which cannot be undertaken in a writ jurisdiction. Therefore, this Court is of the considered view that the Writ Petition is not maintainable and proper recourse to the petitioner is to go before the competent Civil Court and seek adjudication of his right vis-a-vis other claimant.



5. For the aforesaid reasons, this Writ Petition stands dismissed as being not maintainable. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Inspector General of Registration,
Inspector General of Registration Office,
No.100, Santhome High Road,
Rajaannamalaipuram, Chennai-600 028.
2. The District Registrar,
Registrar Office, Karaikudi, Sivagangai District.
3. The Sub Registrar,
Sub Registrar Office-Joint No.II,
Karaikudi, Sivagangai District.

+1 CC to M/s.SPL GP (SR-9672[F] dated 09/03/2021)

W.P. (MD)No.4753 of 2021
08.03.2021

TP(CO)

TR(31.03.2021) 3P 5C