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W.P.(MD).No.9250 of 2019

A.Dharmalingam v.The Inspector General of Registration

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.9250 of 2019

and

W.M.P (MD) .No.11671 of 2019

A.Dharmalingam

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-28.

2.The District Registrar,
Sivagangai.

3.The Sub Registrar,
Joint-2, Sivagangai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 3 to consider the representation given by the petitioner dated 09.08.2017.

For Petitioner : Mr.MA.Gouthaman

For Respondents : Mr.R.Sureshkumar
Government Advocate

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner on 09.08.2017 wherein the petitioner has sought for the cancellation of the entries made in the Encumbrance Certificate while registering the general Power-of-Attorney.

2. The case of the petitioner is that the subject property belongs to the petitioner by virtue of a registered sale deed dated 03.08.2017 registered as Document No.1655/2017 before the third respondent. The further case of the petitioner is that on 30.07.2003 and 07.08.2003, two forged Power-of-Attorney documents were created and registered on the file of the second respondent. According to the petitioner, the Power-of-Attorney was also put into operation by selling the property by executing sale deeds in



favour of various persons.

3. The same became a subject matter of challenge in a suit filed in O.S.No.61 of 2005 before the District Munsif Court, Sivagangai and the District Munsif Court by a judgement and decree dated 23.02.2007 decreed the suit as prayed for. It is seen from records that this decree was confirmed up to this Court in S.A(MD).No.262 of 2009 by judgement dated 27.03.2012.

4. After the dismissal of the Second Appeal, the petitioner made a representation to the second respondent on 09.08.2017 to cancel the illegal entries made in the Encumbrance Certificate at the time of the registration of the fraudulent Power-of-Attorney documents. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5. Heard Mr.MA.Gouthaman, learned counsel appearing for the petitioner and Mr.R.Sureshkumar, learned Government Advocate appearing for the respondents.

6. It is clear from the records that the Civil proceedings had ended in favour of the vendor of the petitioner and the title has also been confirmed. Therefore, obviously the petitioner would not want the entries that were made at the time of registration of the fraudulent Power-of-Attorney documents to remain in the records. This will effectively prevent the petitioner from dealing with the property and therefore those entries will have to be nullified.

7. The petitioner has made a representation to the second respondent to cancel the entries based on the decree passed by the Civil Court. The second respondent may not be able to cancel the entries since such a power has not been vested under the Registration Act. In view of the same, this Court has to come to the aid of the petitioner to enable the petitioner to effectively deal with the property.

8. There shall be a direction to the third respondent to entertain the certified copy of the Decree passed in O.S.No.61 of 2005, dated 23.02.2007 and the same shall be registered. It is made clear that the registration will not be refused on the ground of limitation since this Court has held that Section 23 of the Registration Act will not apply to Court Decrees. Immediately on registration of the decree, the same will effectively reverse the earlier entries made at the time of registration of the Power-of-Attorney documents. This clarity given in this order will enable



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the petitioner to deal with the property and to convey to the prospective purchasers that there is absolutely no encumbrance over the property. The registration shall be completed by the third respondent within a period of one week from the date of production of the certified copy of the Decree by the petitioner. While registering the Decree, the third respondent shall also make a foot note in the index regarding the order passed by this Court in this writ petition in W.P.(MD).No.9250 of 2019.

9. In the result, this writ petition is allowed with the above direction. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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,
No.100, Santhome High Road,
Chennai-28.

2.The District Registrar,
Sivagangai.

3.The Sub Registrar,
Joint-2, Sivagangai.

+1 CC to M/s.MA.GAUTHAMAN, Advocate (SR-21466[F] dated 07/07/2021)
+1 CC to M/s.SPL GP (SR-21521[F] dated 07/07/2021)

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