



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.22399 of 2021

Hema Nandhini

... Petitioner

vs.

1.The District Registrar, (Admn.,)
Registration Department,
Periyakulam,
Theni District.

2.The Sub-Registrar,
Registration Department,
Theni, Theni Taluk,
Theni District.

3.Udayakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Ne.A.No.113 of 2021 dated 08.11.2021, consequent order in Ne.A.No.113 of 2021 dated 09.11.2021 as well as check slip bearing RFL/Theni/Book/2/3 dated 09.11.2021 and quash all the above orders and direct the second respondent to register the power of attorney deed dated 08.10.2021 submitted by the petitioner within a time frame as fixed by this Court.

For Petitioner	:	Mr.M.Joseph Thatheus Jerome
For Respondents	:	Mr.S.Shanmugavel Additional Government Pleader

ORDER

In the affidavit, material details have not been given. But the learned counsel for the petitioner states that the petitioner is not aware about some of the details which the Court seeks to know. The details which are required to be furnished are the nature of the protest raised by the third respondent questioning the registration of a power of attorney presented by the petitioner for registration before the second respondent. The nature of the litigation instituted by the third respondent has also not been stated and it is very sketchily stated by the learned counsel for the petitioner that the third respondent appears to have a claim over the property in question, namely, the property at S.No.730/6 in Plot No.15, measuring about 2730 sq.ft., Plot No.16, measuring about 2415 sq.ft and Plot No.17, measuring about 2345 sq.ft at Koduvilarpatti Village, Theni District. The third respondent claims that a Will



had been executed. The learned counsel for the petitioner further states that a probate petition has been filed by the third respondent and he had also given a protest petition to the second respondent.

2. Naturally, the second respondent cannot register a document without hearing the parties. But that is not the reason, for which, the power of attorney has been refused to be registered but rather it is stated that since litigation is pending, based on a circular restraining registration when a suit is pending, the second respondent had passed the impugned order. That order is interfered with.

3. A duty is cast on the second respondent to issue notice to the petitioner, to issue notice to the third respondent, Udhayakumar S/o. Jeyaraman, call both the parties for an enquiry, examine the protest petition of the third respondent, examine the details of the property for which, the power of attorney has been given and for which, the Will had been executed and thereafter, take a decision whether to register the power of attorney or not to register the power of attorney. The second respondent/Sub Registrar may also examine the probate original petition and then pass an order on the same.

4. It is also informed by the learned Additional Government Pleader, who takes notice on behalf of the first and second respondents that the parent document of the property is available only with the third respondent. It must be again reiterated that the petitioner has not come forward with all the details in this affidavit. Though the impugned order is interfered with, no direction is given to the second respondent to register the power of attorney but rather cautioning the second respondent to follow the rules and guidelines and thereafter, take a decision to register or not to register the document.

5. In view of the fact that the second respondent has been directed to issue notice to the third respondent, this Court is not issuing notice to the third respondent. An embargo is placed on the second respondent from registering the power of attorney without issuing notice to the third respondent.

6. With the said observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



sjj

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 District Registrar, (Admn.,)
Registration Department,
Periyakulam,
Theni District.

2.The Sub-Registrar,
Registration Department,
Theni, Theni Taluk,
Theni District.

+1CC to Mr.M.Joseph Thatheus Jerome, Advocate, SR.No. 39400 dated 17/12/2021

+1CC to M/s.SPL GP, SR.No. 39507 dated 20.12.2021

W.P. (MD) No.22399 of 2021
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ARK (CO)
KB (03.01.2022) 3P 5C