



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2022

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.11617 of 2016
and
WMP.No.27008 of 2022

1. Gurumurthi

2. Sangeetha @ Anbe Sangeetha

... petitioners

-Vs-

1 The District Registrar
Puducherry

2 Mohanasundaram Rajamani

3 Sibuhathulla

4 Abdulla

5 Abdul Kafoor

6 The Sub Registrar
Pondicherry

7 Umukulseem

8 Mariyam Riluvana

9. Habee Bullah Shibil

10. Safiya Sultana

11. Minor Shakriullah Fahim



(Respondents 7 to 11 have impleaded
by this Court dated 01.08.2022 vide
WMP. No.27008 of 2018)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus to call for the records on the file of the 1st respondent in proceedings DRP.No.3/2016 dated 04.03.2016 and to quash the same as unconstitutional, illegal, incompetent and without jurisdiction.

For petitioner : Mr.N.Ganesh

For Respondents : Mr. J.Kumaran, AGP RR1 & 6
Mr.K.Sukumaran RR2 to 5 & 7 to 11

ORDER

The writ petition has been filed seeking to quash the proceedings in DRP.No.3/2016, dated 04.03.2016 by the first respondent.

2. The case of the petitioners is that the petitioners are husband and wife. The property measuring an extent of 2324 sq.ft. was originally belonged to one Packiri @ Krishnasamy and he died intestate on 19.03.1960 leaving behind his wife Thaiammal, who also died intestate in the year 1963 and six daughters viz., Vimala, Sakunthala, Shantha, Padma, Jaya and Uma. While so, one of the



daughters viz., Vimala filed a suit in C.S.No.176/1964 before this Court and as per the judgment of this Court, dated 19.08.1966, the property was allotted to other daughters excluding Shakunthala. Thereafter, the said Padma and Jaya had executed a power of attorney (POA) on 10.09.2003 in favour of the first petitioner in respect of their shares. The said power was allegedly cancelled on 04.03.2006 under document No.233/B4/2006 in the office of the Sub Registrar, Oulgaret. Though the cancellation of POA was informed to the first petitioner, he entered into a sale agreement with one Sangeetha, who is none other than his wife, on 09.07.2005. Therefore, the respondents 2 to 5 have filed a suit in O.S.No.897 of 2013 on the file of the I Additional District Munsif, Pondicherry in relation to 2324 sq.ft. Since it was processed, the second petitioner filed Lok Adalat Case No.2675/2008 and the same was settled before the Lok Adalat under Award dated 23.06.2008. The said award was registered before the Sub Registrar on 11.11.2008. Thereafter, a sale deed was executed by the first petitioner in favour of the second petitioner on 20.02.2009 in document No.592/2009, document No.895/2009 dated 12.03.2009 and document No.351/2011 dated 25.01.2011. Thereafter, the first petitioner has entered into another sale agreement with his brother viz., Ganesh on 15.12.2005. However, the said sale agreement was not processed and therefore, the first petitioner's



brother filed a suit in O.S.No.63/2007 in respect of 924 sq.ft. in which, a written statement was filed by the first petitioner stating that POA was cancelled on 04.03.2006. Thus the first petitioner alienated the property based on the other documents including the Lok Adalat Award passed in the year 2008 in favour of the second petitioner. In the interregnum, the respondents 2 to 5 have made a complaint before the first respondent against the petitioners to cancel the sale deeds which were executed by the first petitioner in favour of the second petitioner. Without considering the real facts, the first respondent has cancelled the sale deeds vide proceedings dated 04.03.2016. Challenging the same, the petitioners have filed the present writ petition before this Court seeking to quash the same.

3. Learned counsel for the petitioners submitted that at the time of execution of the sale deeds, the marriage between the petitioners was not performed. Hence, the alienation in favour of the second petitioner in respect of the subject properties is perfectly valid and therefore, the order of the first respondent in annulling the sale deeds viz., document No.592/2009, dated 20.09.2009, document No.895/2009 dated 12.03.2009 and document No.351/2011 dated 25.01.2011 is illegal. Further, the first respondent has no



power to annul the above said sale deeds or cancel the registration. In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Division Bench of this Court in W.A.No.491 of 2020 dated 18.02.2022, wherein, the Hon'ble Division Bench of this Court categorically held that based upon the order of the Supreme Court, the Registrar does not have powers to annul the documents and the disputes have to be settled before the Court of Law. Therefore, the learned counsel prays to allow the writ petition and quash the impugned order passed by the first respondent.

4. Per contra, the learned counsel for the private respondents submitted that admittedly, the POA was executed by one Padma and Jaya in the year 2003 and the same was cancelled in the year 2006. Further, the first petitioner has executed two sale deeds in favour of his wife and entered a sale agreement with his brother viz., Ramesh. The said Ramesh has filed a suit against the first petitioner for specific performance in O.S.No.63/2007 on the file of Principal District Court, Puducherry. Pending suit, the first petitioner filed a written statement admitting that the POA was cancelled in the year 2006 itself. That being the position, the first petitioner induced the second petitioner to file a Lok Adalat case and obtained a consent Lok Adalat Award, without impleading the



said Padma and Jaya as parties therein. The petitioner presented the lok adalat award before the 6th respondent and executed a sale deed in favour of the second petitioner, which is a clear case of cheating. In view of the fraudulent registration of the subject documents by the first petitioner in favour of the second petitioner who is none other than his own wife, a complaint came to be laid on the basis of the circular dated 18.03.2015 against the petitioners before the first respondent. After careful consideration, the first respondent has passed the impugned order and the same is perfectly valid in law and further, in view of the fraud committed by the petitioners, the sale deeds have been ordered to be annulled. The first respondent has every authority to deal with the complaint filed by the respondents 2 to 5 and the pendency of the civil Suit in respect of the subject sale deeds was not a bar for the first respondent to pass the impugned order. The impugned order has been passed in accordance with the Registration Act, Rules made thereunder and circular issued by the Government of Puducherry. Accordingly, the learned counsel prays to dismiss the writ petition.

5. Heard the learned counsel for the petitioners, learned Additional Government Pleader appearing on behalf of the respondents 1 & 6 as well as the learned counsel appearing for the private respondents and perused the materials



available on record.

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6. As against the impugned order passed by the first respondent, there is an appeal remedy available before the Inspector General of Registration. The learned counsel for the petitioners submitted that they do not want to avail the appeal remedy and they want to avail the remedy only before this Court. Hence, this Court is inclined to dispose of the case on merits.

7. The facts of the case are not in dispute. Admittedly, one Padma and Jaya had 2/5th share and in so far as their pendency of the property, they executed a registered power of attorney in favour of the first petitioner vide document No/1249/2003 on the file of SRO, Puducherry. It is also not in dispute that the first petitioner entered into two sale agreements with the second petitioner and his brother Ramesh. It is also undisputed fact that the said Ramesh has filed a suit in O.S.No.63/2007 on the file District Judge, Puducherry, in which, the first petitioner filed a written statement stating that the POA was cancelled on 04.03.2006. When the first petitioner had knowledge about the cancellation of the POA, this Court is unable to understand on what basis the petitioners have obtained a Lok Adalat Award based on the POA. Admittedly, in the lok adalat



case, the said Padma and Jaya have not been added as parties. Based on the consent award, the 6th respondent has registered the sale deeds in favour of the second petitioner. Admittedly, on the date of Lok Adalat Award and sale deeds, the POA was not in existence as it was cancelled much earlier on 04.03.2006 and the power is not in force. In the absence of power in force, the alienation made by the first petitioner in favour of the second petitioner is non-est in law. Admittedly, the relationship of the petitioners is not in dispute and they are husband and wife. Though, the petitioners claim that the marriage was performed only after the execution of the sale deeds. Even then, the alienation made by the first petitioner in favour of the second petitioner in the absence of the POA is non-est in law and Accordingly, the sale deeds annulled by the first respondent is perfectly in order, which cannot be interfered with.

8. Accordingly, the writ petition is dismissed. No costs.

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No



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- 1 The District Registrar ,
Puducherry.
2. The Sub Registrar,
Pondicherry.



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