



W.P.Nos.12582 & 12583 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2022

CORAM:

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

W.P.Nos.12582 & 12583 of 2015

and

M.P.Nos.1 of 2015 (2 Nos)

W.M.P.Nos.29257 & 29258 of 2016

T.Velusamy . . . Petitioner in W.P.No.12582 of 2015
Vijaya . . . Petitioner in W.P.No.12583 of 2015
Vs.

1. The District Collector,
Chennai District, Chennai-1
2. The Inspector General of Registration
Tamilnadu, Chennai.
3. The District's Registrar South Chennai
(Administration), Saidapet, Chennai-15
4. The Sub Registrar,
Velachery Sub Registrar Office, Chennai
5. The Sub Registrar,
Joint-II Sub Registrar Office, Saidapet,
Chennai-15
6. The Sub Registrar T.Nagar,
Saidapet, Chennai-15.
7. D.Thirunavukkarasu . . . Respondents in both WPs



W.P.Nos.12582 & 12583 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or Writs in the nature of Writ of Certiorari calling for the entire records of the 3rd Respondent in its proceedings number 5235/A3/2014 dated 28.02.2015 and to quash the same.

In both WPs :

For Petitioners : M/s. N.Sivaprakash

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader for R1 to R6
: M/s. D.Senthil Kumar for R7.

ORDER

Since the issue involved in both Writ Petitions are one and the same, these petitions are taken up for final disposal by way of this common order.

2. It is the case of the petitioners that the subject property originally belongs to one Durai who purchased the property vide sale deed dated 04.05.1953 and said Durai had executed a deed of Power of Attorney dated 30.03.1993 in favour of one Krishnamoorthy which came to be registered as



W.P.Nos.12582 & 12583 of 2015

document no.66 of 1973. Subsequently, another deed of Power of Attorney dated 17.03.1973 came to be executed and the same was registered as document No. 8 of 1973, based on which, said Krishnamoorthy, acting as the power Agent, had executed the Sale Deed dated 07.08.1973 in favour of one Anthony. Subsequently, the said property was purchased by the petitioners from said Anthony vide sale deed dated 21.06.2001. After the demise of said Durai, the suit in O.S.No.8681 of 1983 came to be filed by the 7th respondent, the legal heir of said Durai, seeking to cancel the Power of Attorney executed in favour of said Krishnamoorthy and the said suit was decreed on 07.11.1985. While being so, the 7th respondent had lodged a complaint to the 3rd respondent alleging that there is no necessity for his father i.e.,Durai to execute the Power of Attorney dated 17.03.1973, when already a deed of Power of Attorney dated 30.03.1993 had been executed and that the same needs to be cancelled. Based on the said complaint, the 3rd respondent had passed the impugned order canceling the deed of Power of Attorney dated 17.03.1973 executed in favour of said Krishnamoorthy, without issuing any notice to the petitioner. Challenging the same, the present petitions have been filed.



W.P.Nos.12582 & 12583 of 2015

WEB COPY

3. Learned counsel for the petitioner submits that the petitioner being an innocent purchaser of the subject property was not even issued with notice with regard to the complaint given by the 7th respondent, as a result of which, the order impugned in these Writ Petitions came to be passed by the 3rd respondent, which is not sustainable. Hence, the said order is liable to be quashed.

4. Learned Special Government Pleader appearing for the respondents R1 to R6 submits that, as against the order passed by the 3rd respondent, proper course open for the petitioners is to file an appeal before the Appellate Authority/2nd respondent herein, however, without availing such remedy, filing of these Writ Petitions before this Court is wholly impermissible.

5. This Court heard the learned counsel on the either side and perused the materials available on record.



W.P.Nos.12582 & 12583 of 2015

6. As rightly pointed out by the learned Special Government Pleader, when there is an appeal remedy available under the Act, without exhausting such remedy, the petitioners have come up with these Writ Petitions. Therefore, this Court without going into the merits of the case permits the petitioner to file an appeal along with the copy of this order, before the Appellate Authority/2nd respondent within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of the same, the 2nd respondent is directed to pass appropriate orders in accordance with law as expeditiously as possible.

7. Accordingly, these Writ Petitions are disposed of with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

07.07.2022

NHS

Index : Yes / No

Internet : Yes / No



W.P.Nos.12582 & 12583 of 2015

WEB COPY

To

1. The State of Tamil Nadu
Rep by its Secretary to Government,
Housing and Urban Development Department
Fort St. George, Secretariat,
Chennai-600 009
2. The District Collector,
Kanchipuram District,
At Kanchipuram
3. The Member Secretary,
Chennai Metropolitan Development Authority
Thalamuthu Natarajar Maaligai,
Egmore Chennai-600 008.
4. The Special Tahsildar,
(Land Acquisition),
Maraimalai Nagar Scheme,
Maraimalai Nagar,
Chengalpet Taluk,
Kanchipuram District.



WEB COPY



W.P.Nos.12582 & 12583 of 2015



WEB COPY



W.P.Nos.12582 & 12583 of 2015

M.DHANDAPANI, J.

NHS

W.P.Nos.12582 & 12583 of 2015

10.08.2022