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W.P.No.6205 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.6205 of 2016

and

W.M.P.No.5539 of 2016

M.Rajkumar

...Petitioner

Vs.

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai.
2. The District Registrar (Administration),
Office of the District Registrar (South Chennai).
3. The Joint Sub Registrar Saidapet,
Office of the Joint Sub Registrar,
Saidapet, Chennai-600 010.
4. Rajashree
5. Padmini Priyadarshini
6. Abuja R.Bajaj
7. Utsa R.Bajaj
8. Bajaj Properties developers (p) Ltd,
Rep. by its Director Mr.Rajesh Bajaj,



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71/72, Harden CHAMBERS,
Pantheon Road, Egmore,
Chennai-600 008.

9. Kareena R Bajaj

10. Rajesh S Bajaj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare the documents bearing No. P3 57 of 2011, P3 59 of 2011, P3 58 of 2011 and P3 60 of 2011 subsequently numbered as 6193 to 6196 of 2011 executed by 6th respondent as power agent of respondents 4 and 5 in favour of respondents 7 to 10 as null and void and further directing the 3rd respondent to cancel the same.

For Petitioner : Mr.S.Sundaresan

For Respondents : Mr.Yogesh Kannadasan, Spl.GP, for R1-R3
: Mr.H.Karthik Seshadri
for M/s.Iyer & Thomas, for R6 to R10

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Declaration to declare the documents bearing Nos. 6193 to 6196 of 2011 executed by 6th respondent in favour of respondents 7 to 10 as null and void and to consequently direct the 3rd respondent to cancel the same.

2. The case of the petitioner is that, the subject property comprised in S.Nos.37/1 & 37/4, bearing plot No.18, admeasuring 3660 sq.ft. situated at



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Thiruvanniyur Village, Saidapet Taluk is a joint family property. After the demise of the petitioner's father, there arose some dispute in between the petitioner and his sister / the 4th respondent, which resulted in filing of Partition suit in C.S.No.894 of 2006 before this Court, and in that suit, an application in O.A.Nos.944 & 945 of 2006 were filed by the petitioner, in which the 4th respondent has made an undertaking therein that, she will not alienate the subject property till the disposal of the O.P. filed to probate the will alleged to have been executed by the father of the petitioner in favour of the 5th respondent, who is none other than the daughter of the 4th respondent. When the above said suit was pending, contrary to her own undertaking, the 4th and 5th respondents jointly executed a Power of Attorney in favour of the 6th respondent in respect of the subject property and the 6th respondent in turn sold the same in favour of the respondents 7 to 10. Aggrieved by the same, the petitioner filed a contempt petition No.1066 of 2013 and when the same was pending, the petitioner has come up with this Writ petition with the above relief.

3. Learned counsel for the petitioner submitted that, when the partition suit in C.S.No.894 of 2006 in respect of the subject property was



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pending before this Court, in which the 4th respondent has given an undertaking that she will not alienate the subject property and the same was recorded by this Court in O.A.Nos.944 & 945 of 2006, contrary to the said undertaking, the 4th respondent along with her daughter/the 5th respondent has executed a Power of Attorney in favour of the 6th respondent, who in turn sold the subject property in favour of her family members, who are none other than the respondents 7 to 10. Further, when the civil proceedings in respect of the subject property is pending, without considering any of the facts, the fraudulent documents executed by the 6th respondent was entertained by the registration department, which is not sustainable. Hence, he prayed for appropriate orders.

4. Learned Special Government Pleader appearing for the official respondents submitted that the issue involved in the present case is a mere civil dispute in between the petitioner and the private respondents and it is the subject matter of the partition suit and original petition pending before this Court, in which the official respondents has no power to pass order and the same can be decided only in the civil proceedings pending before this Court. Hence, he prayed for dismissal of this Writ petition.



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5. On the above said contentions, heard learned counsel for the private respondents and perused the materials available on record.

6. Since the issue involved in the present case pertains to disputed questions of facts and is purely a civil dispute between the petitioner and the private respondents, the same cannot be entertained under Article 226 of the Constitution and further, rendering any opinion in the merits of the case will adversely affect the interest of the petitioner as well as the private respondents. Hence, this Court without expressing any opinion on the merits of the case, directs the petitioner to canvass all his grievances in the partition suit in C.S.No.894 of 2006, pending before this Court.

7. With the above observations and directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

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Speaking Order : Yes/ No

Index : Yes/ No

To

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M.DHANDAPANI, J.

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