

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21292 of 2021
and W.M.P.No.22532 of 2021

R.Alagarsamy

... Petitioner

Vs.

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004.
- 2.The Deputy Inspector General of Registration/
Appellate Authority,
Santhome High Road,
Chennai 600 004.
- 3.The District Registrar (Administration),
North Chennai, Chennai.
- 4.The Sub Registrar,
Ambattur, Chennai.
- 5.The Zonal Deputy Tahsildar,
Ambattur Taluk,
Thiruvallur District.
- 6.M.Ramasubramanian

... Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling the entire records of the 3rd respondent under reference No. 3751 / ASI / 2018 including the order dated 26.7.2019 and the order in appeal by the 2nd respondent under reference No. 4939 / A1 / 2019 including the order dated 13.2.2020 and quash the same and further direct the respondents 1 to 4 to cause an entry in the records of the 4th respondent showing the Deed of Power of Attorney dated 15.6.2015 registered as document No. 8483 of 2015 in the office of the 4th respondent as a fraudulent document and further direct the 5th respondent to cancel the patta issued consequently under file No.RPT 3115/2015.

For Petitioner: Mr.V.G.Suresh Kumar

For RR1 to 5 : Mr.Yogesh Kannadasan,
Special Government Pleader

For RR6 : Mr.T.J.Kulasekaran

Order

This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the entire records of the 3rd respondent and quash the same and further direct the respondents 1 to 4 to cause an entry in the records of the 4th respondent showing the Deed of Power of Attorney dated 15.6.2015 registered as document No. 8483 of 2015, in the office of the 4th respondent as a fraudulent document and further direct the 5th respondent to cancel the patta.

2. The case of the petitioner is that the property being the plot of land of an extent of 4800 sq.ft comprised in present SF.No.45/2D and 45/4B, Oragadam Village, Ambattur Taluk, Chennai, situated at Dr.Rajendra Prasad Street, Vinayagapuram, Oragadam, was originally owned and possessed by one Mr.Thirupathi Mudaliar, who sold the plot of land in favour of Navaneethammal. It is averred that the said Navaneethammal was blessed with four daughters and one of her daughter namely Chandra was only the surviving daughter, who became the absolute owner of the said property and the said Chandra is none other than the cousin sister of the petitioner herein. It is alleged by the petitioner that in the year 2016, when Chandra and the petitioner came to Chennai to visit the property, it was found that there was power of attorney had been executed in relation to the property in favour of the 6th respondent, by a person shown to be Navaneethammal and the same had been registered in the office of the 4th respondent.

3. It is the grievance of the petitioner that the 6th respondent had manipulated to secure bogus patta for the subject property and make use of the same, had also sold the land in favour of one Mr.K.Thandavarayan. Therefore, the said Chandra ultimately lodged a complaint with the Registration Department, which was enquired into by the 3rd respondent. The 3rd respondent after considering the contentions, by order dated 26.07.2019, observed that there had been no fraud in the execution and registration of the said document and against the said order,

Chandra preferred an appeal to the 1st respondent. The 2nd respondent, in relation to the said appeal preferred to the 1st respondent, by his order dated 13.02.2020, confirmed the order of the 3rd respondent. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submitted that the said Chandra had executed a Will on 28.02.2020, bequeathing the property owned by her to the petitioner and in terms of the Will, the petitioner become the absolute owner of the subject property. Admittedly, though the 6th respondent claimed that he obtained Power of Attorney from Navaneethammal, the said Navaneethammal was passed away in the year 1975 itself, however the 6th respondent with an ulterior motive to defraud the petitioner for the said extent of land, had created the bogus Power of Attorney and created third party right. Hence, this Court may set aside the order of the 3rd respondent and remand the matter back to the 2nd respondent for fresh adjudication and pass appropriate orders and also permit the petitioner and the 6th respondent to canvass all the points before the 2nd respondent, by producing the necessary documents, in order to substantiate the survival of the said Navaneethammal, within a reasonable time as fixed by this Court.

5. The learned counsel appearing for the 6th respondent has no serious objections for the said order being passed.

6. The grievance of the petitioner is that the said Navaneethammal was passed away in the year 1975, however the alleged Power of Attorney was created by the 6th respondent in the name of fictitious person and that fact was not properly considered by the original authority as well as the appellate authority. Therefore, this Court considering the facts and circumstances of the case and further considering the limited prayer sought for by the petitioner, which was not opposed by the 6th respondent, is inclined to set aside the impugned order.

7. In view of the above, this Writ Petition is disposed of and the impugned order in appeal passed by the 2nd respondent under reference No. 4939 / A1 / 2019, dated 13.2.2020, is set aside and the matter is remanded back to the 2nd respondent for fresh consideration. The petitioner and the 6th respondent are directed to appear before the 2nd respondent along with necessary documents to substantiate their claims and further the alleged Principal of the Power of Attorney namely, Navaneethammal, is also directed to appear before the 2nd respondent to substantiate her identity and prove the Power of Attorney created in favour

of the 6th respondent and the 2nd respondent is also directed to afford an opportunity of personal hearing to the petitioner, 6th respondent and the principal Navanethammal. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (CS)

//True copy//

Sub Assistant Registrar

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To

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004.
- 2.The Deputy Inspector General of Registration/
Appellate Authority,
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- 3.The District Registrar (Administration),
North Chennai, Chennai.
- 4.The Sub Registrar,
Ambattur, Chennai.
- 5.The Zonal Deputy Tahsildar,
Ambattur Taluk,
Thiruvallur District.

+1cc to Mr.V.G.Suresh Kumar, Advocate SR.No.25420

+1cc to Mr.T.J.Kulasekaran, Advocate SR.No.25420

+1cc to Government Pleader SR.No.25932

W.P.No.21292 of 2021

AK(CO)
GMV(25/04/2022)