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W.P.No.29484 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.No.29484 of 2014**

and

**M.P.Nos.1 to 3 of 2014**

N.Geetha

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,  
represented by its Secretary,  
Revenue Department, Fort St. George,  
Chepauk, Chennai – 600 009.
- 2.The Inspector General of Registration  
and Chief Revenue Authority,  
No.100, Santhome High Road,  
Foreshore Estate, Chennai – 600 028.
- 3.The District Registrar,  
Cuddalore Taluk and District,  
Cuddalore.
- 4.The Sub-Registrar,  
Vadalur, Kurinjipadi Taluk,  
Cuddalore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for  
issuance of a Writ of Certiorarified Mandamus, to call for the records from



W.P.No.29484 of 2014

the fourth respondent in so far as it relates to the order passed in Proceeding No.193/2014 dated 20.10.2014 in so far as it relates to Registration Refusal Order No.1 of 2014, quash the same order as void and unenforceable and without jurisdiction and direct the fourth respondent to register and return the Document No.40 of 2009 dated 26.11.2009 executed by Mr.Hemadri, represented by his power agent Mr.Rajesh, to and in favour of the petitioner in respect of the lands comprising 16 plots, measuring 31680 sq.ft. in the layout approved vide order in Na.Oo.A.No.3/2004 and named as “Sri Ragavendra City”, in the lands in S.No.1/2 measuring 4.23.0 Hectares, and S.No.1/3 measuring 5.14.0 Hectares (Old S.No.670 and 671/1) in Serakuppam Village in Vadalur Town Panchayat, Kurinjipadi Taluk, Cuddalore District, pursuant to the order passed by the third respondent in his proceedings Na.Ka.No.4729/Aa/1/2014 dated 18.08.2014 forthwith to the petitioner.

For Petitioner : Mr.J.Rajakalifulla  
Senior Counsel  
for M/s.Thenmozhi

For Respondents : Mr.K.Tippusulthan  
Government Advocate

### **ORDER**

The petitioner has filed this Writ Petition to quash the impugned order dated 20.10.2014 of the fourth respondent Sub-Registrar, Vadalur, Kurinjipadi Taluk, Cuddalore, bearing Proceedings No.193/2014 insofar as



W.P.No.29484 of 2014

it relates to the refusal to register the Sale Deed in terms of the Refusal Order No.01/2014 and to direct the fourth respondent to register and return the Document No.40/2009 dated 26.11.2009 executed by Mr.Hemadri represented by his power agent Mr.Rajesh, to and in favour of the petitioner in respect of land comprising 16 Plots, measuring an extent of 31680 sq.ft. in layout approved vide order in Na.Oo.A.No.3/2004 and named as “Ragavendra City” in the land in S.No.1/2 measuring a total extent of 4.23.0 Hectares, and S.No.1/3 measuring an extent of 5.14.0 Hectares (Old S.No.670 and 671/1) in Serakuppam Village in Vadalur Town Panchayat, Kurinijipadi Taluk, Cuddalore District, pursuant to the order dated 18.08.2014 passed by the third respondent in his proceedings Na.Ka.No.4729/Aa/1/2014 forthwith to the petitioner.

2. A Sale Deed was executed in favour of the petitioner by one Rajesh who incidentally appears to be the brother of the petitioner as is evident from a reading of the Power of Attorney executed in his favour by Hemadri, the owner of the land. It appears that the said owner had purchased the land in question on 19.07.2004 and had executed Power of Attorney in favour of the said Rajesh which was registered as Document



W.P.No.29484 of 2014

No.1997/2004.

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3. The facts on record also indicate that though the Power of Attorney was executed in favour of the said Rajesh on 11.11.2005 and registered as Document No.2080/2005, the said owner of the land Hemadri executed two Sale Deeds in favour of one N.Chandrakumar and one V.M.Suriyamurthy on 06.11.2009. The Sale Deeds were registered as Document Nos.3649/2009 and 3650/2009 as under:-

| Dated      | Document No. | Name of the purchaser | Plot Nos.  | Extent of land                    |
|------------|--------------|-----------------------|------------|-----------------------------------|
| 06.11.2009 | 3650/2009    | V.M.Suriyamurthy      | 128 to 135 | 15840 sq.ft.<br>(1472.12 sq.mts.) |
| 16.11.2022 | 3649/2009    | N.Chandrakumar        | 136 to 143 | 15840 sq.ft.<br>(1472.12 sq.mts.) |

4. On the strength of the Power of Attorney executed by the said owner Hemadri vide registered Document No.2080/2005 dated 11.11.2005, a Sale Deed was executed in favour of the petitioner on 26.11.2009 by the Power of Attorney Holder Rajesh.

5. The specific case of the petitioner is that after the Sale Deed was



W.P.No.29484 of 2014

executed by the vendor in favour of the petitioner through his Power of Agent namely, Rajesh, the Document was presented for registration on 26.11.2009 but was kept pending as Document No.40/2009.

6. It is submitted that the fourth respondent as a Registering Authority has no authority to keep a document pending presented for registration. It is submitted that only circumstances under which the document can be kept pending is where there is a deficiency in the stamp duty and a reference was required under Section 47-A of the Stamp Act, 1899 or under the circumstances stipulated in Rule 55 of the Tamil Nadu Registration Rules, 1983. In this connection, the learned Senior Counsel for the petitioner has placed reliance on the following three cases:-

- i. **The District Collector, Erode District and two others Vs. M.Ponnusamy**, 2001 (2) CTC 449.
- ii. **B.Rajappa and another Vs. The Special Deputy Collector (Stamps) and others**, (2002) 3 CTC 544 : 2002 SCC OnLine Mad 245.
- iii. **V.K.Amalraj Vs. The Inspector General (Registrations) and others**, order dated 02.02.2011 passed by the Division Bench of the Madurai Bench of this Court in W.P. (MD) No.10543 of 2009.

7. It is submitted that the impugned order of the fourth respondent is



W.P.No.29484 of 2014

a non-speaking order inasmuch as it merely states as follows:-

WEB COPY

| <i>Tamil</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <i>English</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Miz:</p> <p>jpU.uhN[~; vd;gtuhy; tIY}H rg;b<br/>Nruh;Fg;gk; fpuhkk; r.vz;.1/2<br/>.4.23.0. VH]; kw;Wk; 1/3 5.14.0<br/>Vhrpy; mikf;fg;gl;l =uhfNte;jpuh<br/>rpl;b kidg;gpupTfspy; kid vz;.128<br/>Kjy; 143 tiu 16 kidfs; jq;fSf;F fpiuak;<br/>nfhLg;gjhf vOjp 26.11.2009<br/>Njjpapy; ,t;tYtyfj;jpy; gjpTf;F jhf;fy;<br/>nra;ag;gl;L ,t;tYtyfj;jpy; epYit<br/>vz;.40/2009 Mf epYitapy; itf;fg;gl;l<br/>Mtzk; ghu;itapy; fhZk;<br/>khtl;lg;gjpthsH mtu;fspd; Mizapd;gb<br/>gjpT kWg;G Miz vz;.1/2014 Mf gjpT<br/>kWjspj;J Mizaplg;gLfpwJ.</p> <p>vdNt&gt; jhq;fs; mry; urPJ kw;Wk;<br/>milahsr; rhd;Wld; Neupy; te;J mry;<br/>Mtzj;ij kPs ngw;Wf; nfhs;SkhW<br/>,jd;%yk; mwptpf;fg;gLfpwJ.</p> | <p>Order:</p> <p>The document filed by you in this office on 26.11.2009 for registration stating that Mr.Rajesh had sold to you 16 Plots in Plot Nos.128 to 143 measuring an extent of .4.23.0 Ares in S.No.1/2 and 5.14.0 Ares in S.No.1/3 situated at Sri Ragavendra City, Serakuppam Village, Vadalur Sub Registrar which was kept pending as Pending Document No.40/2009 was ordered to be refused as per the Refusal Order No.1/2014 of the District Registrar.</p> <p>Thus, you are hereby directed to come with identity card to receive original receipt.</p> |

8. It is submitted that earlier the petitioner had sent a representation to the third respondent District Registrar, pursuant to which, the third respondent has directed the fourth respondent Sub-Registrar to accept the Pending Document No.40/2009 for registration after collecting deficit



W.P.No.29484 of 2014

stamp duty and deficit registration charges, if any, and to return the document to the petitioner.

9. It is further submitted that the impugned order has been passed long after the execution of Sale Deed and its presentation on 26.11.2009. It is submitted that though the document was presented on 26.11.2009, the Suit came to be instituted before the District Munsif Court, Cuddalore, in O.S.No.455 of 2009 by the so called purchasers namely N.Chandrakumar and V.M.Suriyamurthy, for a permanent injunction to restrain the said Hemadri from alienating or registering any document in respect of the aforesaid 16 Plots. In this Suit, the petitioner is one of the parties. Curiously, the said suit was decreed *exparte* even though the plaintiffs therein, i.e. the so called purchasers, were absent.

10. It is submitted that concerned Sub Registrar namely, the fourth respondent / third defendant in O.S.No.455 of 2009 was working in a tandem to defeat the legitimate rights and was engaged in fabrication of document. It is submitted that the petitioner's vendor had lodged a police complaint with the District Crime Branch, Cuddalore against the said so



W.P.No.29484 of 2014

called purchasers N.Chandrasekar and V.M.Suriyamurthy for the fraud and forgery committed by them. It is submitted that since the Inspector of Police did not take any steps to register the case, the petitioner's vendor approached this Court and on further direction of this Court only, a FIR was registered against the so called purchasers and they were arrested and remanded to judicial custody. It is submitted that the said criminal case is pending investigation.

11. It is submitted that the Inspector of Police thereafter filed I.A.No.225 of 2011 in O.S.No.455 of 2009 for handing over of the two Original Sale Deeds dated 06.11.2009 which is said to have been executed by the Hemadri in favour of the said so called purchasers N.Chandrasekar and V.M.Suriyamurthy for investigation.

12. It is submitted that the said N.Chandrasekar and V.M.Suriyamurthy filed I.A.No.941 of 2010 in O.S.No.455 of 2009 seeking return of the original Sale Deeds dated 06.11.2009 and substituting the Sale Deeds by copies of the same, stating that original documents are required for enquiry of the police authorities. The District Munsif Court,



W.P.No.29484 of 2014

has allowed the said I.A. vide order dated 07.09.2010 and returned the original documents on condition that the original documents should be returned back after the enquiry was completed.

13. It is submitted that only when I.A.No.225 of 2011 filed by the Inspector of Police was taken up for hearing, the petitioner was informed about the order dated 07.09.2010 passed in I.A.No.941 of 2010 and about the return of original documents to the so called purchasers N.Chandrasekar and V.M.Suriyamurthy. It is submitted that on investigation of the status, it came to light that the police authority had not asked the original documents to be produced by them.

14. It is submitted that the petitioner's vendor Hemadri filed I.A.No1097 of 2010 in O.S.No.455 of 2009 for a direction to the said N.Chandrasekar and V.M.Suriyamurthy to re-produce the two original documents in the Court and filed I.A.No.1125 of 2010 to send the two original documents for forensic examination and for comparison of signature. In these cases, the said N.Chandrasekar and V.M.Suriyamurthy filed their counter stating that they have pledged the documents with one



W.P.No.29484 of 2014

K.Devakannu and that the documents are not in their possession. The Court has directed them to produce the same. However, the said N.Chandrasekar and V.M.Suriyamurthy did not produce the same.

15. Thereafter, the petitioner's vendor Hemadri filed I.A.No.149 of 2011 to punish the said N.Chandrasekar and V.M.Suriyamurthy for contempt of Court. After the said petition was filed, the said N.Chandrasekar and V.M.Suriyamurthy filed Civil Revision Petitions before this Court against the order in I.A.Nos.1197 & 1125 of 2010. However, they withdrew the Civil Revision Petitions.

16. It is submitted that meanwhile, the petitioner's vendor Hemadri was threatened and that apprehending danger to his life, he has absconded and his whereabouts are not known. Thereafter, the petitioner filed I.A.No.180 of 2012 to implead herself as a party in the Suit. The District Munsif Court, without hearing the argument, on 09.11.2012, has dismissed the I.A. filed by the petitioner stating that the respondents were not in possession of the documents and at the same time, decreed O.S.No.455 of 2009 as prayed for without any trial even though the parties were not



W.P.No.29484 of 2014

present. The operative portion of the order dated 09.11.2012 in O.S.No.455

of 2009 reads as under:-

“This suit coming on this day 9.11.2012 before me for final hearing in the presence of Thiru.Balathandautham, Advocate for 1<sup>st</sup> defendant and the Government Pleader for the 2 and 3 defendants and plaintiffs called absent”, decreed the suit as prayed.

17. It is submitted that the fourth respondent did not release the document citing the pendency of the Suit. It is submitted that there is no provision in the Registration Act to withhold the document after registration. It is submitted that the fourth respondent has no jurisdiction or authority to retain a document after registering without passing any order, beyond 30 days. It is submitted that after almost a five years, the impugned order has been passed refusing the registration of document filed by the petitioner. It is therefore prayed for allowing this Writ Petition by setting aside the impugned order.

18. This Writ Petition is opposed by the learned counsel for the respondents. It is submitted that by the Refusal Order No.1/2014, reasons



W.P.No.29484 of 2014

have been given in respect of the pending Document No.40/2009. It is submitted that in respect of the land in question, already Sale Deeds were registered as Document Nos.3649/2009 and 3650/2009 dated 06.11.2009. The Sale Deed executed in favour of the petitioner by the Power of Agent Rajesh is subsequent on 26.11.2009 between 03.00 p.m. to 4.00 p.m. and that since already the Sale Deeds had been executed in respect of the same land, the question of registering the subsequent document did not arise.

19. That apart, it is submitted that O.S.No.455 of 2009 was pending before the District Munsif Court and that the Suit has been later decreed. Though the petitioner had filed C.R.P.No.1049 of 2013 before this Court and also filed an appeal against order dated 09.11.2011 in O.S.No.455 of 2009, the fact remains that in respect of the land, there cannot be two registrations.

20. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents. I have perused the reasons for refusal vide Refusal Order No.1/2014.



W.P.No.29484 of 2014

21. The documents have been kept pending vide Pending Document No.40/2009 in respect of the Sale Deed presented on 26.11.2009. The reasons for refusal to register vide Refusal Order No.1/2014 indicates that the Sale Deed dated 26.11.2009 was executed by the Power of Attorney Rajesh, S/o.N.Dhasaradhan in favour of N.Geetha, the petitioner herein who is also stated to be the daughter of said N.Dhasaradhan. Though the addresses given are different, it appears that the petitioner and the Power of Attorney Rajesh are siblings and children of the said N.Dhasaradhan.

22. It appears that the Sale Deed that was executed in favour of the petitioner on 26.11.2009 was by the said Power of Attorney Rajesh, S/o.N.Dhasaradhan on the strength of Power of Attorney dated 11.11.2005 registered as Document No.2080/2005. It is not clear as to why the Sale Deed dated 26.11.2009 was not executed by the Power of Attorney in favour of the petitioner earlier, but, were executed immediately after the two Sale Deeds were executed by the owner of the land Hemadri in favour of the said N.Chandrasekar and V.M.Suriyamurthy. The petitioner has not taken any steps for cancelling the registration of Document Nos.3649/2009 and 3650/2009 both dated 06.11.2009 before presenting the Sale Deed



W.P.No.29484 of 2014

executed on 26.11.2009 in her favour.

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23. That apart, it also appears that Suit has been instituted by the so called purchasers N.Chandrasekar and V.M.Suriyamurthy and a police complaint appears to have been filed against them.

24. The Power of Attorney dated 11.11.2005 on the strength of which the Sale Deed dated 26.11.2009 was executed by the said Rajesh in favour of the petitioner would have expired. In case it is case of the petitioner that two Sale Deeds both dated 06.11.2009 executed in favour of the said N.Chandrasekar and V.M.Suriyamurthy registered as Document Nos.3649/2009 and 3650/2009 were bogus documents or were on the strength of the fabricated document, it was for the petitioner to take appropriate steps to cancel the same or recover the amount that is said to have been paid by the petitioner to the vendor or the Power of Attorney. The petitioner has also not made either the vendor or the previous purchasers namely, N.Chandrasekar and V.M.Suriyamurthy, as respondents in this Writ Petition.



W.P.No.29484 of 2014

25. Though Rule 55 of the Tamil Nadu Registration Rules, 1983 does not contemplate enquiry by the Registering Authority with regard to the rights and ownership, the fact remains that the registration could not have been allowed in the teeth in favour of the petitioner in view of prior Sale Deed executed on 06.11.2009. Rule 55 of the Tamil Nadu Registration Rules, 1983 reads as under:-

**55.** It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;
- (b) that the document is forged;
- (c) that the person appearing as a representative, assign or agent, has not right to appear in that capacity;
- (d) that the executing party is not really dead, as alleged by the party applying for registration; or



W.P.No.29484 of 2014

(e) that the executing party is a minor or an idiot or a lunatic.

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26. Further, under the provisions of the Tamil Nadu Registration Act and Rules made thereunder, only after the sale is completed, the Registration can be made. As a prior sale exists, a second sale cannot be accepted and allowed and therefore, the Sale Deed executed on 26.11.2009 in favor of the petitioner by the Power of Attorney cannot be allowed to be registered merely because it is prescribed for registration as such registration creates further right. While declining to register such a document, the Sub Registrar is not actually determining the ownership. There is a cloud over the rights of the petitioner over the land as prior registration exists in respect of the same land.

27. Under these circumstances, I do not find any merits in the present Writ Petition. However, I leave it open for the petitioner to take appropriate steps to either cancel the Sale Deeds executed in favour of the said N.Chandrasekar and V.M.Suriyamurthy by the owner or recover the amount from her vendor or from the Power of Attorney, to whom, the petitioner may have had made payment before execution of Sale Deed



W.P.No.29484 of 2014

executed in favor of the petitioner on 26.11.2009, in accordance with law.

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28. This Writ Petition stands dismissed. No cost. Consequently,  
connected Miscellaneous Petitions are closed.

01.12.2022

Internet : Yes / No

Index: Yes/ No

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To

1.The Secretary,  
Revenue Department,  
The Government of Tamil Nadu,  
Fort St. George,Chepauk, Chennai – 600 009.

2.The Inspector General of Registration  
and Chief Revenue Authority,  
No.100, Santhome High Road,  
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W.P.No.29484 of 2014

**C.SARAVANAN, J.**

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W.P.No.29484 of 2014  
and M.P.Nos.1 to 3 of 2014

01.12.2022