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W.P.No.33750 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.P.No.33750 of 2022**

N.Ulaganathan

.. Petitioner

Vs.

1. The Inspector General of Registration,  
No.100, Santhome High Road,  
Chennai - 600 028.

2. The District Registrar,  
North Chennai,  
Office of the District Registrar,  
Chennai - 600 001.

3. P.Babu Reddy

4. Zuari Cement Ltd.,  
Rep. by its Sr.Manager,  
No.87/1, 2, 3 Attipattu Village,  
Ponneri Taluk, Tiruvallur District.

.. Respondents

**Prayer :** Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the second respondent to consider the representation dated 19.09.2022 of the petitioner, conduct an enquiry and cancel the forged and fabricated power of attorney Document No.1422/2006, dated 30.06.2006 and deed of conveyance (Sale Deed) dated



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09.08.2006 registered as document No.5049 of 2006 on the file of Sub Registrar, Thiruvottriyur in favour of Zuari Cements Limited, in the light of the order dated 16.07.2021, passed by the Revenue Divisional Officer, Ponneri within a time limit to be fixed by this Court.

For Petitioner : Mr.M.Elumalai

For Respondents 1 & 2 : Mrs.Senthil Selvi  
Government Advocate

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### **ORDER**

This writ petition has been filed seeking a direction to the second respondent to consider the representation of the petitioner.

2. After hearing the parties, when this Court was about to dismiss the writ petition mainly on the ground that the revenue officials have no right to cancel the document merely on the allegation of fraudulent transaction and that the only exception to exercise such power to cancel the document is provided under Section 22A and 22B of the Registration Act. Section 22 B of the Act deals with refusal to register forged documents and other documents prohibited by law. Section 22-B reads as follows:

"Section 22-B. Refusal to register forged\_



documents and other documents prohibited by law.— Notwithstanding anything contained in this Act, the registering officer shall refuse to register the following documents, namely:—

- (1) forged document;
- (2) document relating to transaction, which is prohibited by any Central Act or State Act for the time being in force;
- (3) document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under any Central Act or State Act for the time being in force or any Court or Tribunal;
- (4) any other document as the State Government may, by notification, specify."

3. Thus, only the documents that fall within the ambit of forgery or any transaction which is prohibited by any Central Act or State Act for the time being in force or any property which has already been attached by a competent authority, the Registering officer shall refuse to register. When the sale has taken place those documents can be cancelled under Section 77-A of the Registration (Tamil Nadu Second Amendment) Act, 2021.



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4. Therefore, merely because someone has executed the document believing that the property belongs to him that will not amount to forgery. It is relevant to rely on the judgment of the Hon'ble Supreme Court in ***Mohammed Ibrahim Vs. State of Bihar*** reported in **(2009) 8 SCC 751**. In paragraphs 14, 16 and 17 the Hon'ble Supreme Court has held as follows:

*"14. An analysis of Section 464 of the Penal Code shows that it divides false documents into three categories:*

*1. The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.*

*2. The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.*

*3. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b)*



*intoxication; or (c) deception practised upon him, know the contents of the document or the nature of the alteration.*

*In short, a person is said to have made a “false document”, if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses.*

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*16. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of “false documents”, it is not sufficient that a document has been made or*



*executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.*

*17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted."*

5. At this stage, Mr.M.Elumalai learned counsel appearing for the writ petitioner seeks permission of this Court to withdraw the writ petition. The said statement is recorded. The learned counsel for the petitioner has also made an endorsement to that effect in the case bundle.

6. Such view of the matter, with the above observations, this writ



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petition is dismissed as withdrawn. No costs.

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Index : Yes / No

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**N.SATHISH KUMAR, J.**

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