

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29316 of 2018

And

W.M.P.No.34263 of 2018

M.Sekar

...Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar,
No.9, Jennis Road,
Saidapet,
Chennai - 600 015.
3. The Sub-Registrar,
NGS Enclave,
Manickam Salai,
Kundrathur,
Chennai - 600 069.

4. M.Pazhani
5. A.Sekar

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records General Power of Attorney dated 19.12.2014 registered as document No.19543 of 2014 on the file of the third respondent and executed by the 4th respondent in favour of the 5th respondent to quash and consequently direct the encumbrance corresponding to property situated in Door No.No.3/26, Vanniar Street, Senner Kuppan Village, bearing New Survey No.141/5, Old Survey No.82/1, Poonamalle Taluk, Tiruvallur District measuring an extent of 1820 sq.ft.

For Petitioner : Mr.S.R.Chandrasudan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records General Power of Attorney dated 19.12.2014 registered as document No.19543 of 2014 on the file of the third respondent, to quash and to consequently direct the encumbrance corresponding to property situated in Door No.3/26, Vanniar Street, Senner Kuppam Village, bearing New Survey No.141/5, Old Survey No.82/1, Poonamalle Taluk, Tiruvallur District measuring an extent of 1820 sq.ft.

2.The case of the petitioner is that the subject property was purchased by his father and his father died intestate on 26.01.1996 and his mother died on 22.03.2018 and after their death their legal heirs including the petitioner have equal share and right over the property. While being so, one of his brother/ the fourth respondent executed General Power of Attorney dated 19.12.2014 in favour of the fifth respondent and registered the same as document No.19543 of 2014 on the file of the third respondent. On coming to know about the same, the petitioner made representation to the third respondent to cancel the General Power of Attorney, however, his request was rejected by the third respondent. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that though the fourth respondent is the brother of the petitioner, he without any authority, executed General Power of Attorney in favour of the fifth respondent, which is unsustainable one.

4.The learned Special Government Pleader appearing for the Official respondents submitted that admittedly, the subject property was purchased by the petitioner's father and his demise, his legal heirs have equal share and right over the property. The dispute is inbetween the petitioner and fourth respondent. The right over the property and the validity of the General Power of Attorney executed by the fourth respondent in favour of the fifth respondent has to be decided only by the competent civil Court and further submitted that the petitioner has not filed the writ petition challenging the rejection order passed by the third respondent. Without challenging the rejection order, filing writ petition is not sustainable one.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. Admittedly, the dispute inbetween the petitioner and the fourth respondent is property dispute which can be decided only by the competent civil Court and not by this Court under Article 226 of

the Constitution of India. Further, the petitioner has already made representation to the third respondent to cancel the General Power of Attorney executed by the fourth respondent in favour of the fifth respondent, but, his request was rejected by the third respondent. However, the petitioner has not filed the writ petition challenging the rejection order passed by the third respondent. Hence, the prayer sought for in this petition cannot be considered.

7.The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
No.100, Santhome High Road,
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+1cc to Government Pleader SR. No. 36597

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GJ (CO)
PR (14/07/2022)