



W.P(MD)No.16791 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16791 of 2013

and

M.P(MD)No.1 of 2013

Dhanapal

... Petitioner

Vs.

1.The Sub-Registrar,
Chettikulam,
Tiruchirappalli District.

2.P.Angamuthu

3.P.Duraisamy

4.V.Saminathan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned Registration of General Power of Attorney Deed dated 27.11.2012 registered with the first respondent office and to quash the same.



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For Petitioner : Mr.S.Deenadhayalan
For R1 : Mr.S.R.A.Ramachandran
Additional Government Pleader
For R2 - R4 : Mr.M.S.Suresh

ORDER

The present writ petition has been filed to quash the registration of a power deed, dated 27.11.2012 registered in Doc.No.6535 of 2012 on the file of the first respondent herein.

2. According to the writ petitioner, the property belongs to Kalaimahal Sabha. It went under liquidation and this Court has appointed one Mr.S.Navaneetha Krishnan and K.R.Hariharan as administrators by an order, dated 30.04.1999 and 06.04.2006 in W.P.No.514 of 1999. The said receivers had auctioned the property in dispute on 17.05.2007. The writ petitioner was the successful bidder and his bid was placed before the High Court and the High Court was pleased to confirm the sale in favour of the writ petitioner by an order, dated 31.07.2007. Pursuant to the confirmation of the order passed by this Court, the sale deed came to



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be executed in favour of the writ petitioner and 2 others by way of a document, dated 31.12.2014 in Doc.No.129 of 2015.

3. According to the petitioner, the property belongs to Kalaimahal Sabha and joint receivers have been appointed by the High Court to take over the property. The petitioner was the successful bidder in the Court auction held on 17.05.2007 and they have also paid part consideration. Thereafter, the respondents 2 and 3 herein have executed a general power deed in favour of the fourth respondent for the same survey number, namely S.No.308/4. This document has been created only to disturb the title of the writ petitioner, which was confirmed by the High Court.

4. The learned counsel appearing for the petitioner further pointed out that the respondents 2 and 3 have filed O.S.No.144 of 2007 on the file of the Additional District Munsif Court, Lalgudi for the relief of declaration of title and consequential permanent injunction. In the said suit, the Kalaimahal Sabha, represented by its General Manager was the second defendant. The Special Officer of the Kalaimahal Sabha was the third defendant. The said suit was dismissed for default on 11.01.2012.



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After 3 months, the plaintiffs therein/respondents 2 and 3 herein have chosen to execute the present power deed on 27.11.2012 in favour of the fourth respondent herein. After the suit for declaration of title and injunction was dismissed for default, the present power deed has been executed by them. It is also an admitted fact that the suit that was dismissed for default on 11.01.2012 was not restored as on today.

5. Per contra, the learned counsel appearing for the respondents 2 and 3 had contended that they are not a party in W.P.No.514 of 1999 and any orders passed therein to conduct public auction of the survey number in dispute would not be binding upon them. He further contended that the dismissal of the suit in O.S.No.144 of 2007 will not in any way affect their title or executing a power deed in favour of the fourth respondent herein.

6. The learned counsel for the petitioner has further contended that the respondents 2 and 3 have filed W.P.No.18504 of 2017 to cancel the patta standing in the name of one Rani and to restore the patta in the name of the respondents 2 and 3 herein, who are the petitioners in the



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said writ petition. The said Kalaimahal Sabha was the fifth respondent in the said writ petition. According to the petitioner, the present writ petition may be tagged along with the said writ petition.

7. I have carefully considered the submissions made on either side.

8. The property in dispute is S.No.308/4 having an extent of 2 acres 99 cents in Periyakottai Village, Chettikulam Sub Registrar Office, Lalgudi Taluk. Trichy District. According to the petitioner, the property belongs to Kalaimahal Sabha and after it was wound up and joint receivers were appointed by the High Court, who had auctioned the property in favour of the writ petitioner and 2 other persons. The said auction was confirmed by the High Court and a sale deed has also been executed in favour of the writ petitioner and 2 others by way of a document, dated 31.12.2014. However, the respondents 2 and 3 claim that the property does not belong to Kalaimahal Sabha and hence, the sale deed said to have been executed by the receivers in favour of the writ petitioner is not binding upon them. However, I am not in agreement with the said submission in view of the fact that, the respondents 2 and 3



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herein have already filed O.S.No.144 of 2007 on the file of the Additional District Munsif Court, Lalgudi as against Kalaimahal Sabha and 2 others for the relief of declaration of title and permanent injunction. The said suit was dismissed for default on 11.01.2012. So far, no steps have been taken to restore the said suit. However, 10 months after the dismissal of the said suit, on 27.11.2012, the respondents 2 and 3 have chosen to execute the impugned power deed in favour of the 4th respondent. In view of the confirmation of the sale in favour of the writ petitioner and dismissal of the suit filed by the respondents 2 and 3 herein, this Court finds that the impugned power deed is not legally sustainable and the same is liable to be set aside.

9. In view of the above said discussions, the registration of the impugned power deed, dated 27.11.2012 in Doc.No.6535 of 2014 on the file of the first respondent is hereby set aside. The first respondent is directed to delete the entries in the encumbrance certificate. However, the respondents 2 to 4 are at liberty to approach the competent Civil Court to establish their title, if they are so advised.



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10. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The Sub-Registrar,
Chettikulam,
Tiruchirappalli District.



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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.16791 of 2013

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