



W.P.No.3827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3827 of 2023

V.Sudhakara Rao

.... Petitioner

-Vs-

1.The Inspector General of Registration
Office of the Inspector General of Registration
Santhome High Road, Santhome, Chennai.

2.The District Registrar (Administration)
Chennai South, Fanapet
Nandanam, Chennai 600 035.

3.The Sub Registrar
Neelankarai Sub Registrar Office
Neelankarai, Chennai 600 041.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent herein to complete the enquiry on the complaint dated 13.07.2022 in File No,14513/2022 and the further representation dated 28.11.2022 made under Section 77A of the Registration Act and pass orders of cancellation of Deed of General Power of Attorney dated 01.08.2017 bearing Doc.No.5479/2017 in Book No.1 in the office of 3rd respondent and cancellation of further Sale Deeds bearing Doc.Nos.2761/2018 dated 25.04.2018, 2975 and 4022/2018 both dated 03.05.2018, 3021/2018 dated 04.05.2018, 4020 & 4022/2018 both dated 18.06.2018 all on the file of the 3rd respondent executed through the fraudulent



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PoA by invoking Section 77A of the Registration Act within a time frame that may be stipulated by this Hon'ble Court.

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For Petitioner : Mr.V.P.Sengottuvel
Senior Counsel for Ms.K.Indu Priya
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 2nd respondent herein to complete the enquiry on the complaint dated 13.07.2022 in File No,14513/2022 and the further representation dated 28.11.2022 made under Section 77A of the Registration Act and pass orders of cancellation of Deed of General Power of Attorney dated 01.08.2017 bearing Doc.No.5479/2017 in Book No.1 in the office of 3rd respondent and cancellation of further Sale Deeds bearing Doc.Nos.2761/2018 dated 25.04.2018, 2975 and 4022/2018 both dated 03.05.2018, 3021/2018 dated 04.05.2018, 4020 & 4022/2018 both dated 18.06.2018 all on the file of the 3rd respondent executed through the fraudulent PoA by invoking Section 77A of the Registration Act within a time frame that may be stipulated by this Court.

2. It is the case of the petitioners that, the property situated at Plot No.35 measuring an extent of 2400 Sq.ft in the layout known as VPG Avenue comprised in S.No.219/5, situated at Okkiyam Thoraipakkam Village, Saidapet Taluk, Chengalpet District, now Sholinganallur Taluk, Chennai District was purchased by



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the petitioner's father one Chalapathy who died intestate on 23.01.2017, and by virtue of the same, the petitioner and other legal heirs have inherited the property in question. However, to their shock and surprise, the petitioner and the other legal heirs (brother and sister) came to know that on 01.08.2017 a forged Power of Attorney was prepared as general power of attorney and that was also registered as Document No.5479/2017 in Book No.1 on the file of the Sub Registrar Office, Neelangarai ie., the 3rd respondent, pursuant to which, by using the said forged power of attorney the said power of attorney holder seems to have sold the property to those private parties as joint owners. Those documents also had been registered in the year 2018 in the same Sub Registrar Office.

3. After coming to know all these developments, which had taken place, according to the petitioner, completely in a fraudulent manner, the petitioner has chosen to give a representation on 13.07.2022 to the 2nd respondent under Section 68(2) of the Registration Act, to conduct enquiry and to take action. When the said representation was pending consideration before the 2nd respondent, the State Legislature has amended the Registration Act, 1908 under which certain provisions like Sections 22-A, 22-B, 77-A and 77-B were inserted and under Section 77-A power is vested with the District Registrar to entertain such complaint against any such fraudulent documents and registration of



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fraudulent or bogus documents and if any such complaint is given, that has to be entertained by the District Registrar concerned, after giving notice to both sides and at the same time, if it is ultimately declared to be fraudulent document, consequential direction to be given to the registering authority to cancel those documents.

4. Having come to know the said amendment that was issued in the said Act, the petitioner had given a further complaint on 28.11.2022 to the 2nd respondent District Registrar to treat his representation dated 13.07.2022 as complaint within the meaning of Section 77-A of the Act and accordingly he wants an enquiry to be conducted in the manner known to law.

5. Pursuant to the representation-cum-complaint dated 13.07.2022 in fact summons had been issued by the 2nd respondent District Registrar to appear before him on 12.08.2022 and the petitioner also appeared before him and produced all the parent documents to establish that the property belongs to the petitioner and other legal heirs inherited from the original owner Chalapathy.

6. However, since no action seems to have been taken on the additional complaint given after the amendment made as stated above, the petitioner has approached this Court by filing the present writ petition.



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7. Reiterating the aforesaid facts, Mr.V.P.Sengottuvel, learned Senior Counsel appearing for the petitioner would seek the indulgence of this Court to give a direction to the 2nd respondent to give priority to the complaints given by the petitioner and conduct enquiry as there has been complete fraudulent transactions under which the property of the petitioner had been exploited by third parties.

8. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents, who would submit that, pursuant to the earlier complaint dated 13.07.2022, if already summons are issued and the petitioner appeared on 12.08.2022 and the petitioner has given another complaint on 28.11.2022, and in the meanwhile the Act has got amended under which Section 77-A was inserted, taking note of the totality of the circumstances, invoking the powers vested with the District Registrar within the meaning of Section 77A, the complaints dated 13.07.2022 and 28.11.2022 would be considered and decided after conducting proper enquiry in this regard by giving further opportunity of being heard to both the petitioner as well as the persons against whom such complaint has been given and accordingly it would be decided within a time frame on merits and in accordance with law.



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9. I have heard the submissions made by learned counsel for both sides and have perused the materials placed on record.

10. It is a classic case to demonstrate as to how these kind of fraudulent transactions are taking place in respect of worthy immovable properties in this State. The original owner Chalapathy died on 23.01.2017. After seven months, some miscreants seems to have created a document by way of general power of attorney by forging the signature of the said Chalapathy. As he would not have signed in the document dated 01.08.2017 because he died on 23.01.2017 itself, the power of attorney document also got registered in the 3rd respondent office by pucca impersonation. Subsequently, based on the said forged power of attorney, the property in question has been encumbered by way of six sale deeds in Doc.No.2761 of 2018 2975 and 4022/2018 both dated 03.05.2018, 3021/2018 dated 04.05.2018, 4020 & 4022/2018 both dated 18.06.2018 in the very same SRO ie., the 3rd respondent.

11. Therefore, the original owners of the property like the petitioner and other legal heirs of the said Chalapathy are struggling like anything to retrieve their property. In order to meet these kind of situations only the State Legislature with their wisdom, of course by the suggestion given by this Court,



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had come forward to make an amendment in the Registration Act, 1908, first of its kind in India and since the Registration Act being a Central legislation, the State amendment has been assented by the President of India and has come into effect from 16.08.2022. Under the said amendment, especially Section 77-A of the Act, such a power like a quasi judicial power is vested with the District Registrar, before whom, if any complaint is given by any aggrieved party against such fraudulent transaction, such complaint shall be entertained, and after giving opportunity to both sides, a decision shall be taken as to whether the document in question is a fraudulent document or not. If such a declaration is made by the District Registrar concerned, the consequential action would be to give a direction to the registering authority / Sub Registrar to cancel such document. This kind of quick and effective remedy since has been provided under such amended provisions viz., Section 77-A, that can be very well invoked by the 2nd respondent. In the present case, a subsequent representation also has been given to the 2nd respondent on 28.11.2022. Therefore, unmindful of the earlier summon issued to the petitioner to appear before him on 12.08.2022, in view of the amended provisions, by taking into account the subsequent representation or complaint given by the petitioner dated 28.11.2022 along with the earlier representation given on 13.07.2022 it has to be enquired upon by the 2nd respondent within the meaning of Section 77-A of the Act.



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12. Therefore, in that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the 2nd respondent to entertain the complaint-cum-representation dated 13.07.2022 as well as 28.11.2022 and enquire the matter by issuing summons to both the petitioner as well as the persons against whom such complaint / representation was given by the petitioner, and after giving such an opportunity of being heard, the 2nd respondent shall complete the enquiry and decide the issue as to the plea of the petitioner to declare those documents as fraudulent documents.
- In view of the aforesaid facts discussed herein above, where the original owner died on 23.01.2017, whereas the power of attorney document was registered on 01.08.2017 followed by subsequent sale deeds in the year 2018, accordingly necessary declaration shall be made by the 2nd respondent within the meaning of Section 77-A of the Act. A consequent direction shall also be given to the 3rd respondent SRO to cancel those documents, provided if the 2nd respondent is satisfied that the plea raised by the petitioner is to be accepted.
- The needful as indicated above shall be undertaken by the 2nd respondent within a period of eight weeks from the date of receipt of a copy of this order.



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- In that view of the said prima facie case, where the original owner died on 23.01.2017 and power of attorney was registered on 01.08.2017, by thus prima facie it can be concluded that there has been fraudulent activities, pursuant to which in respect of documents registered in the year 2018 like Document No.2761 of 2018 dated 25.04.2018, 2975 and 4022/2018 both dated 03.05.2018, 3021/2018 dated 04.05.2018, 4020 & 4022/2018 both dated 18.06.2018 etc., it may not be sustainable, of course subject to the decision to be made by the 2nd respondent as indicated above.
- Hence, I am of the view that there shall be a direction to the 3rd respondent not to entertain any document from any third parties pertaining to the property in question, where if they show the documents as mentioned above ie., power document dated 01.08.2017 and sale deed in Doc.No.2761 of 2018 etc., as parent documents and such encumbrance or registration shall not be entertained by the 3rd respondent until a final decision is made by the 2nd respondent / District Registrar as indicated above.

13. With the above directions, this writ petition is disposed of. No costs.

09.02.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

Note : Issue order copy on 16.02.2023



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To

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Office of the Inspector General of Registration
Santhome High Road, Santhome, Chennai.
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R. SURESH KUMAR, J.

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