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W.P.No.37878 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.37878 of 2015 &
M.P.No.1 of 2015

1.Annibal Joseph Nehru
2.Annibal Laetitia Sandra

...Petitioners

Vs.

1.Union of India
Represented by the Secretary to Government -
Cum-Inspector General of Registration,
Department of Revenue and Disaster Management,
Government of Puducherry,
Puducherry – 605 001.

2.The District Registrar,
Puducherry – 605 001.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of declaration declaring the circular issued by the first respondent herein in their proceedings No.104/SS(R)/PA/2013/P.F./143, Puducherry dated 03.02.2014, refusing to the Registrar the General Power of Attorney and transfer of undivided share of land in respect of certain persons without amending the law relating to registration under the



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Registration Act, 1908 or by relevant rules passed under section 69 of the Registration Act is illegal and unenforceable.

For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.Ramaswamy Meyyappan,
Government Advocate (Puducherry)

ORDER

The writ petition has been instituted challenging the circular dated 03.02.2014.

2. The impugned circular has been issued by the Inspector General of Registration, Puducherry, taking note of the fact that the immovable properties are to be transferred legally and lawfully by a registered deed like sale deed, conveyance etc. Execution of general power of attorney/special power of attorney etc., in respect of immovable property do not convey any title and thus, they are not legally recognised as the valid modes of transfer of immovable property as per the existing provisions of law. In order to clarify certain doubts and procedures, the Inspector General of Registration, Puducherry issued the impugned circular.



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3. Section 69 of the Registration Act, 1908 provides power to Inspector General to superintend the Registration Offices and make rules. Under sub section 1 to section 69, the Inspector General of Registration shall exercise a general superintendence over all the registration offices in the territories under the State Government and shall have the power from time to time to make rules consistent with the Act.

4. The petitioner has raised a ground that the impugned circular is not in consistent with the provisions of the Act. However, the impugned circular itself states that when a power of attorney is being registered, the Registering Officer shall act in accordance with sections 33 & 34 of the Registration Act, 1908. Further it provides procedures for the purpose of completing the registration. The impugned circular states that no deed of power of attorney in respect of immovable property shall be registered, unless it contains a full description of the property as per section 21 of the Registration Act. The Person executing the powers should specifically state the name of the village, town, street, Survey Number etc including four boundaries.



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5. Perusal of the circular reveals that the procedures to be followed for registration of power of attorney have been enumerated in consonance with the provision of the Registration Act. Thus, the very contention of the petitioner that the circular supersedes the provisions of the Act deserves no merit consideration, since there is no proof to establish the said ground.

6. Throughout the circular, the Inspector General of Registration has reiterated the procedures to be followed for registering power of attorney in order to avoid fraudulent transfer of immovable property through power of attorney documents. The said circular was issued in the year 2014 and it is in force for the past more than nine years.

7. This being the factum, this court do not find any further reason to interfere with the impugned circular. Accordingly, writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

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To
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S.M.SUBRAMANIAM, J.

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