



W.P.No.24738 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24738 of 2023

D.Thaniel

...Petitioner

-Vs-

1.The District Registrar,
Registration Department (Admin),
Vellore District.

2.The Sub-Registrar,
O/o.The Sub Registrar Office,
Jolarpet.

3. V.C.Adhithan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of order passed by the 2nd Respondent Refusal No.RFL/Jollarpet/51/2023 dated 07.08.2023 and quash the same and consequently direct the 2nd Respondent to register the General Power of Attorney Deed pertaining to the property comprised in Survey No.111/1B1, situated at Kottaiyur Village, Yelagiri Hills, Thirupattur Taluk.



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For Petitioner : Mr.R.Ramesh
For R1 and R2 : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

The refusal check slip dated 07.08.2023 issued by the second respondent herein is under challenge in the present writ petition.

2. The petitioner presented a power of attorney document for registration in respect of the subject property morefully described in the present writ petition. The owner of the property is Mr.Suresh Kumar, S/o.Chinnasamy. The petitioner has been appointed as general power of attorney to deal with the property by the principal Mr.Suresh Kumar. The said document presented for registration was returned along with the refusal check slip on the ground that two entries are available in the encumbrance certificate relating to the ownership and therefore, the Sub Registrar is empowered to refuse the document.

3. The learned counsel for the petitioner mainly contended that the original owner Mr.Suresh Kumar derived title from his mother Kasiammal



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in favour of whom a Will was executed. Such disputes of civil nature relating to title cannot be adjudicated either before the Sub Registrar or before the High Court in a writ proceedings under Article 226 of the Constitution of India. As far as the registration of document is concerned, the competent authorities are empowered to scrutinize the documents in consonance with the provisions of the Registration Act and Rules in force. The only question to be considered is whether the documents presented has satisfied the conditions stipulated under the Act or Rules.

4. In this context, Rule 55(A)(i) of the Registration Rules enumerates that "the Registering Officer before whom a document relating to immovable property is presented for registration, shall not register the same, unless the presentant produces the previous original deed by which the executant acquired right over the subject property and an Encumbrance Certificate pertaining to the property obtained within ten days from the date of presentation." Therefore, the registering authority is empowered to verify the previous original deed by which the executant acquired right over the subject property and the encumbrance certificate.



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WEB CONTENT

5. The written instructions given by the Sub-Registrar, Jolarpet, vide letter dated 22.08.2023 reveals that, while scrutinizing the encumbrance certificate from 01.01.1975 to till date, it is found that Mr.V.C.Adhithan has acquired the property in Survey No.111/1B to a total extent of 1.48 acre situated at Kottaiyur Village, Yelagiri Hills, Tirupattur Taluk from Veerasamy, via Sale Deed No.344/2007 registered in Jolarpettai Registration Office. Moreover, the Survey No.111/1B is sub-divided as 111/1B1 - Acre 1.19 cent and 111/1B2 - Acre 0.25 cent. The said Suresh Kumar S/o.Chinnasamy has presented a general power of attorney appointing the petitioner D.Thaniel, S/o.Dhamodharan as the agent in the mentioned Survey No.111/1B1, situated at Kottaiyur Village, Yelagiri Hills, Tirupattur Taluk, who is claiming ownership through the registered Settlement Deed No.207 of 2015 registered in Jolarpettai Registrar office.

6. Pertinently, the District Registrar, Vellore, passed an order in proceeding dated 02.03.2020 in a complaint filed by the said Mr.Adhithan on 21.08.2019. In the said enquiry proceedings conducted by the District Registrar under the Registration Act, Suresh Kumar, Kasiammal and



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Chinnasamy filed an undertaking affidavit in Crl.O.P.No.26380 of 2018 in Crime No.47 of 2018. Both Chinnasamy and Kasiammal has given an undertaking affidavit before the High Court in the said Criminal Original Petition. The said undertaking reads as follows:-

"Hence, we hereby undertake and assure that, ourself and 3 others shown as accused in the said compliant vide Crime No.7 of 2018, the Respondent Police and our representatives, will/shall not interfere in any manner with the peaceful possession and enjoyment of the Defacto Complainant or his legal representatives in respect of the said total Agriculture Punjai land totaling 1.64 Acres comprised in Survey No.111/1 of Kattaiyur village, Elagiri Hills, Athanavir Matlura Tirupattur Taluk, Vellore District couched as per the said Sale Deeds dated 06.10.1994 and 23.08.2023 vide Document Numbers 1191 of 1994 and 2290 of 2013 on the filer of SRO, Jolarpet, Vellore District."

7. In the present writ petition, the writ petitioner has not stated anything about the said Criminal Original Petition or the undertaking affidavit filed before the High Court. The practice of suppressing certain



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vital facts with reference to the title and ownership are found to be mostly common in recent days. Greedy men are attempting to grab the properties from others in one way or the other by creating false documents or by suppressing certain facts. This exactly is the reason why the amendment was brought in and Sections 22-A, 22-B, 55-A, 77-A and 77(B) were inserted. Consequently, necessary Rules were also framed thereunder. The Rules contemplate procedures for the purpose of scrutinizing all the documents so as to ensure that such fraudulent registrations are averted for the benefit of the public at large.

8. In the present case, the Sub Registrar found that there are two entries in the encumbrance certificate and after examining the documents, found that one Mr.V.C.Adhithan also claims to be the owner. In the event of such title dispute between the parties, the Sub Registrar is empowered to refuse registration under Rule 55-A of the Registration Rules.

9. Thus, this Court do not find any infirmity in respect of the impugned order of refusal issued by the Sub Registrar and accordingly, the



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said order stands confirmed. It is for the petitioner to resolve the said issue
by approaching the Civil Court of law.

10. With the above observations, the Writ Petition stands dismissed.

No costs.

23.08.2023

Index:Yes
Neutral Citation:Yes
Speaking order
rjr/hvk

To

- 1.The District Registrar,
Registration Department (Admin),
Vellore District.
- 2.The Sub-Registrar,
O/o.The Sub Registrar Office,
Jolarpet.



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S.M.SUBRAMANIAM, J.

rjr/hvk

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