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W.P.No.11270 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.11270 of 2017 and
W.M.P.No.12193 of 2017

K.Sailaja

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Mylapore, Chennai – 600 004.

2.The District Registrar,
Central Madras,
182, Barathi Salai, Royapettah,
Chennai – 600 014.

3.The Mylapore Sub-Registrar,
100, Ground Floor, Santhome High Road,
Mylapore, Chennai – 600 004.

4.S.Ayyappan

5.A.Pramila

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent's in Proceeding No.6052/A4/2016 dated 17/05/2016 and its consequential Proceeding No.6052/A4/2016 dated 05.04.2017



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and quash the same and direct the 2nd respondent to consider the representation of the petitioner dated 04.05.2016 and enquire into the complaint in terms of the relevant provisions of the Registration Act, 1908 coupled with the Tamil Nadu Registration Rules, 1983 and the periodical Circulars issued by the higher authorities including Circular No.67 dated 03.11.2011 issued by the first respondent.

For Petitioner : Mr.D.Krishnapradeep

For Respondents : Mr.T.Arunkumar
Addl. Government Pleader for R1 to R3

: Not ready in notice for R4 & R5

ORDER

The order passed by the District Registrar in Proceeding dated 17.05.2016 rejecting the complaint given by the petitioner to cancel the power of attorney document is under challenge in the present writ petition.

2. The petitioner states that her deceased husband Mr.R.Baskar executed a power of attorney in favour of the 4th respondent to sell his property. The husband of the petitioner conferred power to the attorney only to sell 40% of the undivided portion of the scheduled property and thereafter, the husband of the petitioner became unconscious and was in



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coma on account of an accident.

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3. Taking undue advantage of the physical condition of the husband of the writ petitioner, the 4th respondent executed a sale deed in favour of the 5th respondent conveying 40% of the total extent of the property which is directly in contravention to the power executed by the husband of the writ petitioner.

4. The learned counsel for the petitioner made a submission that the petitioner filed a complaint for cancellation of the document on the ground of fraud, the District Registrar rejected the complaint on the ground that the power of attorney was executed by her husband and more so, the disputed facts relating to civil rights cannot be adjudicated under the provisions of the Registration Act.

5. The power conferred under the provisions of the Registration Act is to be exercised to the limited extent of considering the complaint within the ambit of fraud or impersonation committed under Sections 32 to 35 of the Act. The District Registrar has no jurisdiction to adjudicate the civil rights of the parties and if at all there is no intentional fraud or



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otherwise committed by any person, a remedy is to redress the same before the Civil Court and the Registrar is incompetent to adjudicate the issues through summary proceedings. The fraud or impersonation if found apparent on record, then alone the Registrar can cancel the document and the petitioner if aggrieved out of any other fraud of general nature has to approach the Civil Court.

6. The learned counsel for the petitioner states that the life certificate produced by the petitioner would reveal that her husband was in coma stage during the relevant point of time when the sale deed was executed. Thus, the allegations against the 4th respondent may be serious in nature and there is a probability of abuse of power by the 4th respondent taking undue advantage of the situation. However, these facts are to be established by the petitioner before the Civil Court of Law and the District Registrar cannot decide this nature of issues. The High Court in a writ proceeding in this regard cannot conduct a roving enquiry and therefore, the petitioner is at liberty to approach the competent Civil Court of Law for the purpose of establishing her case in the manner known to law. It is brought to the notice of this Court that the petitioner



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has already instituted a suit which is to be adjudicated on merits.

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7. With these observations, the Writ Petition stands disposed of.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.06.2023

Index : Yes / No

Speaking order : Yes / No

Sgl

To

- 1.The Inspector General of Registration,
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S.M. SUBRAMANIAM, J.

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