



WEB COPY

WP No.29865 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.29865 of 2019

And

WMP No.29778 of 2019

G.Thanikachalam

... Petitioner

Vs.

1.The Sub Registrar,
SRO, Kaveripakkam,
Vellore District.

2.M.Manohari

3.M.Ramamoorthy

4.M.Radhadevi

5.M.Vinodkumar

6.M.Mahesh

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring the cancellation of the Deed



of General Power of Attorney as document No.4309 of 2019 dated 26.09.2019 on the file of the first respondent herein in respect of the property in Survey No.436/2, totally measuring 2.85.5 ares, 7.05 acres situated at No.24, Mangalam Village, Kaveripakkam Panchayat Union, Arakkonam Taluk, Vellore District is illegal.

For Petitioner : Mr.S.P.Sudalaiyandi

For Respondent-1 : Mr.P.Sanjay Gandhi,
Government Advocate.

For Respondents-2 to 6 : Mr.K.Bharathi

ORDER

The writ on hand has been instituted to declare the cancellation of the Deed of General Power of Attorney as document No.4309 of 2019 dated 26.09.2019 on the file of the first respondent herein in respect of the property in Survey No.436/2, totally measuring 2.85.5 ares, 7.05 acres situated at No.24, Mangalam Village, Kaveripakkam Panchayat Union, Arakkonam Taluk, Vellore District is illegal.



2. The petitioner states that the property situated in Survey No.436/2, totally measuring 2.85.5 ares, 7.05 acres situated at No.24, Mangalam Village, Kaveripakkam Panchayat Union, Arakkonam Taluk, Vellore District was dealt with by the petitioner. One Mr.Munusamy was the owner of the subject property. After his demise, his legal heirs, namely, respondents 2 to 6 were enjoying the same. The subject property was developed and plotted out in the name and style of 'Vinayagar Nagar Layout' by the then Power of Agent of the respondents 2 to 6.

3. The then Power Agent sold some of the plots to various third parties. In the meantime, the respondents 2 to 6 cancelled the Power of Attorney originally granted in favour of the third parties. Subsequently on 24.12.2018, the respondents 2 to 6 jointly executed the General Power of Attorney to the petitioner to sell the remaining plots as many as 75 with a total extent of 94511 sq.ft. and it was registered as Document No.82 of 2019 on the file of the first respondent. Subsequently, the said General Power of Attorney executed in favour of the petitioner was also cancelled unilaterally by respondents 2 to 6, despite the fact that the petitioner has paid some consideration.



4. The learned counsel for the petitioner mainly contended that unilateral cancellation of Power of Attorney, where certain conditions are imposed, is impermissible and therefore, cancellation of Power of Attorney Deed is to be declared as null and void. The Power of Attorney executed in favour of the petitioner is coupled with interest and therefore, as per the Full Bench judgment of this Court, unilateral cancellation cannot be done by the respondents 2 to 6.

5. Generally cancellation of Power of Attorney is permissible. If at all, some conditions are imposed and such conditions are breached by any one of the parties, they have to approach the Competent Civil Court of Law for the purpose of redressal of their grievances.

6. Contrarily, the Registering Authority cannot cull out the distinction between the Power of Attorney coupled with interest and general Power of Attorney executed. The Deed of Power of Attorney or the Will, is revocable at the instance of the Executor and there is no impediment for cancellation of such documents under the provisions of the Registration



Act, 1908. In the event of any dispute, the remedy is to approach the Competent Civil Court of Law and the Registering Authority is not empowered to cancel the Power of Attorney Deed or Will, even if it was cancelled unilaterally by the Executor.

7. In view of the principles, the petitioner is at liberty to redress his grievances in the manner known to law by approaching the Competent Civil Court of Law.

8. With the above liberty, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

18-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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S.M.SUBRAMANIAM, J.

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To

The Sub Registrar,
SRO, Kaveripakkam,
Vellore District.

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