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W.P.Nos.32946 & 32906 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.32946 & 32906 of 2022

B.Thiruvengadam
V.Devakumaran

... Petitioner in W.P.No.32946 of 2022
... Petitioner in W.P.No.32906 of 2022

Vs.

1.The Inspector General of Registrar,
Office of the Inspector General of Registration,
11, Santhome High Road, Mylapore,
Foreshore Estate, Chennai, Tamil Nadu – 600 028.

2.The District Registrar,
Chennai Central,
Chennai – 600 003.

3.The Sub Registrar Office,
Virugambakkam,
Chennai – 600 092.

... Respondents in both W.Ps

Prayer in W.P.No.32946 of 2022:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records of the third respondent in his proceedings being Refusal Check Slip vide refusal No.RFL/Virugambakkam/64/2022 dated 16.11.2022 and quash the same



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and consequently directing the third respondent to receive and register the General Power of Attorney deed dated 16.11.2022.

Prayer in W.P.No.32906 of 2022:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records of the third respondent in his proceedings being Refusal Check Slip vide refusal No.RFL/Virugambakkam/66/2022 dated 21.11.2022 and quash the same and consequently directing the third respondent to receive and register the General Power of Attorney deed dated 18.11.2022.

For Petitioners

in both W.Ps. : Mr.G.Ilamurugu

For Respondents 1 to 3

in both W.Ps. : Mr.E.Sundaram
Government Advocate

COMMON ORDER

The refusal check slips dated 16.11.2022 and 21.11.2022 issued by the Sub Registrar, Virugambakkam are sought to be quashed in these writ petitions.

2. The petitioners state that they purchased the property from their vendor and became the owner. The petitioners filed a civil suit in O.S.No.392/2009 before the District Court, Tiruvallur and it was



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subsequently transferred to the file of the III Additional District and Sessions Court at Poonamallee and renumbered as O.S.No.29 of 2010. The suit filed by the petitioners was dismissed. They preferred an appeal suit in A.S.No.286 of 2013 which is now pending before this Court.

3. In such circumstances, the petitioners presented general power of attorneys separately for registration before the third respondent and the third respondent returned the documents on the ground that the property already stands in the name of other persons and as per the encumbrance, two owners are claiming the title and therefore, they cannot proceed with the registration. The impugned orders state that two persons are claiming right over the subject property and therefore, the petitioners have to approach the competent civil court of law.

4. The learned counsel for the petitioners mainly contended that the power of attorney documents were presented to represent the case and not to transfer the property or to deal with the property. Therefore, it is specific power of attorneys and thus, the registering authority has erroneously returned the documents.



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5. However, the learned Government Advocate appearing on behalf of the respondents raised an objection by stating that reading of the documents would reveal that it is general power of attorneys and therefore, it cannot be registered as rightly returned by the respondents.

6. The documents presented by the writ petitioners have been enclosed along with the typed set of papers filed in these writ petitions. The said documents indicate that they are general power of attorneys. The power has been conferred even to transfer the property, to enter into an agreement and to do all other things on behalf of the principals. When such general power of attorneys were presented for registration during the pendency of the appeal suit instituted by the writ petitioners and also the encumbrance reveals that some other persons are the owners of the property, the Registrar has rightly returned the documents as the same cannot be registered under the provisions of the Act. The Registrar has exercised his powers in consonance with the provisions of the Registration Act and there is no infirmity as such. If at all specific power is to be given, that is to be made in the manner to law and such general power of attorney, if registered would cause prejudice to either of the parties. More so, the appeal suit is also pending before the High Court.



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7. This being the factum, the relief as such sought for in these writ petitions cannot be considered. Accordingly, the writ petitions stand dismissed. No costs.

26.07.2023

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Index : Yes
Speaking Order



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S.M.SUBRAMANIAM, J.

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