



W.P.(MD)No.11349 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11349 of 2012

and

M.P.(MD)No.1 of 2012

Karpagam

... Petitioner

Vs.

1.The District Registrar,
Karaikudi,
Sivagangai District.

2.KR.VR.Veerappachettiar.

*(R2 is amended vide order dated 04.07.2023
in M.P.(MD)No.1 of 2013 in
W.P.(MD)No.11349 of 2012 by GRSJ)*

3.Ramasamy

4.VR.Umaiya

5.VR.Abirami

6.VR.Chittal

*(R4 to R6 are impleaded vide order dated
18.11.2022 in W.M.P.(MD)No.10229 of 2022
in W.P.(MD)No.11349 of 2012 by RVJ)*

7.V.Somasundaram

... Respondents

*(R7 is impleaded vide order dated 04.07.2023
in W.M.P.(MD)No.23099 of 2022 in
W.P.(MD)No.11349 of 2012 by GRSJ)*



W.P(MD)No.11349 of 2012

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the Impugned Proceedings of the 1st respondent herein dated 02.07.2012 in Na.Ka.No.601/Aa1/2012, declaring that the agreement for sale in favour of petitioner herein as void and quash the same.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.SRA.Ramachandran

Addl. Government Pleader for R1.
Mr.R.Thirugnanasambanthan for R2.
Mr.G.Prabhu Rajadurai for R7.
No appearance for R3 to R6.

ORDER

Heard the learned counsel on either side.

2.One Veerappa Chettiar executed a registered power of attorney on 10.03.2005 in favour of S.Ramasamy, the husband of the writ petitioner. Pursuant to the said power, Ramasamy executed a registered sale agreement in favour of the writ petitioner on 06.07.2005. On 05.11.2005, Veerappa Chettiar cancelled the power of attorney dated 10.03.2005 executed in favour of S.Ramasamy and he is said to have



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executed a fresh power of attorney in respect of the petition mentioned property in favour Pulithevan Pandiyan. Pulithevan Pandiyan submitted a petition dated 27.01.2012 before the first respondent seeking cancellation of the power of attorney executed by Veerappa Chettiar in favour of Ramasamy on 10.03.2005. After conducting enquiry, the District Registrar, Karaikudi vide order dated 02.07.2012 cancelled the sale agreement executed in favour of the petitioner registered as Document No.2809 of 2005 on the file Joint Registrar No.II, Karaikudi as invalid. Challenging the same, the present writ petition came to be filed.

3.During the pendency of the writ petition, Veerappa Chettiar cancelled the power of attorney executed in favour Pulithevan Pandiyan and Pulithevan Pandiyan is out of the picture. This Court therefore directed the petitioner to implead Veerappa Chettiar himself. It then came to be known that Veerappa Chettiar was no more. Therefore, his legal heirs were impleaded. Though they have been served and their names are printed in the cause list, they have not chosen to enter appearance.



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4. After hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent, I am more than satisfied that the impugned order is unsustainable. Veerappa Chettiar had executed power of attorney in favour of Ramasamy. The power agent was entitled to act on that basis. By the time, the power was cancelled, the power agent / Ramasamy had already executed a registered sale agreement in favour of the writ petitioner / his wife on 06.07.2005 itself. When power had already been acted upon, the question of invalidating the consequential acts by the registering authority does not arise at all. In any event, the Registrar could not have passed an order of this nature. While the power of the Registrar to cancel the sale agreement itself is open to grave doubt, the reason given in the impugned order is even more strange. Since the writ petitioner did not appear for enquiry, she was set as ex-parte. Even if the noticee fails to turn up for enquiry, still the authority has to pass an order on merits. Merely because the noticee remained ex-parte, an adverse order cannot be passed as a mechanical corollary and consequence.



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5.Pulithevan Pandiyan invoked Circular No.67 dated 03.11.2011.

WEB COPY The said circular itself has been subsequently withdrawn. The Hon'ble Apex Court in the decision reported in **(2016) 10 SCC 767 (Satya Pal Anand Vs. State of Madhya Pradesh)** had held that the registering authority lacks the power to cancel the registration of a document. In this case, what has been cancelled is a sale agreement registered pursuant to the power of attorney given by the principal. Therefore, the impugned order is set aside as one without jurisdiction.

6.However certain observations will have to be made with regard to the averments made by impleaded seventh respondent

7.The case of the seventh respondent is that Veerappa Chettiar mentioned above is his sibling. From a reading of the averments made in the affidavit filed in support of the writ petition as well as the recitals in the power of attorney dated 10.03.2005, it is seen that the property is an ancestral property. The specific case of the impleaded seventh respondent is that the property was allotted to their father in a partition suit. Incidentally their father was also known as Veerappa Chettiar.



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Veerappa Chettiar (senior) died leaving behind his wife, two sons and two daughters. According to the impleaded seventh respondent, the principal of Ramasamy / Pulithevan Pandian namely, Veerappa Chettiar had only 1/5th undivided share in the property.

8.I have referred to the stand of the impleaded seventh respondent only to emphasis the point that the setting aside of the impugned order and allowing this writ petition will not give upper hand to the writ petitioner vis-a-vis the impleaded seventh respondent.

9.With this observation and clarification, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The District Registrar,
Karaikudi,

6/9



Sivagangai District.

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G.R.SWAMINATHAN, J.

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