



W.P(MD)No.810 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.810 of 2023

and

W.M.P(MD).No.784 of 2023

R.Sudhakar

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar,
Periyakulam Registration Office,
Periyakulam, Theni District.

2.The Sub Registrar,
Office of the Sub Registrar,
Theni District.

3.Thiyagaraj

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the refusal check slip dated 23.12.2022 issued by the second respondent and quash the same and consequently directing the second respondent to register the cancellation of power deed dated 22.12.2022 presented by the petitioner within the time stipulated by this Court.

For Petitioner	: Mr.C.Jeganathan
For Respondents	: Mr.N.Satheeskumar (for R1 & R2)
	Additional Government Pleader
	Mr.C.GAneshkumar (for R3)



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W.P(MD)No.810 of 2023

ORDER

Heard the learned counsel on either side.

2. The petitioner wants this Court to direct the second respondent to accept the deed of cancellation. The petitioner had executed power of attorney dated 05.08.2022 in favour of the third respondent. This document is sought to be cancelled now. The second respondent is however declined to do so and issued the impugned Refusal Check Slip.

3. The learned counsel appearing for the petitioner strongly relies on the order dated 24.03.2021 passed by this Court in W.P(MD).Nos.2073 and 2076 of 2021. In the said order, I had dealt with a Power of Attorney which was coupled with interest.

4. Section 202 of the Indian Contract Act 1872, reads as follows

“Termination of agency, where agent has an interest in subject matter:- Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.”



W.P(MD)No.810 of 2023

5. I had held that if according to the power agent, the power of attorney granted in his favour is coupled with interest and therefore, not revocable, it is for him to move the jurisdictional Court and obtain an order of injunction restraining the Registering Authority from registering any document of cancellation. So long as the power agent has not obtained any order of injunction, the Registering Authority cannot refuse to register the document in question. No doubt, this order clearly favours the writ petitioner.

6. I am spared the trouble of reconsidering the correctness of the earlier view in view of the special facts and circumstances obtaining in this case.

Section 204 of the Indian contract Act, 1872 reads as follows:

Revocation where authority has been partly exercised.-The principal cannot revoke the authority given to his agent after the authority has been partly exercised, so far as regards such acts and obligations as arise from acts already done in the agency.

7. In the case on hand, the agent had already exercised his power under the Power of Attorney and executed sale deed dated 30.11.2022 in favour of Ponnuchamy and Balachandran. The said sale deed had also been directed to be registered by me vide order dated 27.01.2023 in W.P(MD).No.28641 of 2022. I have also given liberty to the writ petitioner herein to establish his right



W.P(MD)No.810 of 2023

before the jurisdictional Civil Court. In that view of the matter, the order impugned in this writ petition does not call for interference. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions is closed.

27.01.2023

NCC : Yes / No

Index : Yes / No

Rmk

To

- 1.The District Registrar,
Office of the District Registrar,
Periyakulam Registration Office,
Periyakulam, Theni District.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Theni District.



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W.P(MD)No.810 of 2023

G.R.SWAMINATHAN, J.,

Rmk

W.P(MD)No.810 of 2023

27.01.2023