



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CONT P(MD)No.870 of 2023

in

WP(MD)No.5710 of 2022

A.R.Sachidhanandh S/o.Rajasekar
Power agent of Dr.S.Gurushankar
No.1/220, A-2, Srichakra Nagar,
Thirumohur Road,
Othakadai,
Madurai – 625 107`

... Petitioner/
Petitioner

Vs.

Mr.A.Kandappan, B.Sc., B.L.,
Joint Sub-Registrar, Madurai North-1,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Y.Othakadai, Madurai – 625 107.

... Contemnor /
Respondent

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the contemnor for his willful, wanton disobedience of the order of this Court made in WP(MD)No.5710 of 2022 dated 31.03.2023.



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For Petitioner : Mr.K.Subramanian,
Senior Counsel for Mr.S.Venkatesh

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by Mr.S.Shanmugavel,
Additional Government Pleader

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondent.

2.Even before commencing the arguments, the learned Senior Counsel for the petitioner submitted that he is not pressing the allegations set out in the additional affidavit filed by the petitioner.

3.The petitioner had obtained power of attorney from his principal Dr.S.Gurushankar for creating equitable mortgage. The registering authority declined to register the power of attorney. That led to the filing of WP(MD)No. 5710 of 2022. The said writ petition was allowed by me on 31.03.2023. The registering authority thereafter registered the power of attorney. The specific



stand of the petitioner is that the registering authority however declined to permit the registration of the deed of mortgage presented by the petitioner herein in his capacity as power agent. That led to the filing of this Contempt Petition.

4. There is a popular proverb “கல்யாணம் பண்ணியும் பிரம்மச்சாரி”. There is no point in registering the power of attorney if the power agent cannot act based on the power conferred on him. In this case, the department had originally resisted even registering the power of attorney. It was pursuant to the direction given by this Court, the document came to be registered. By not permitting the registration of the mortgage deed, it appears that the department wants to frustrate the petitioner. I therefore called upon the learned Additional Advocate General to clarify the stand of the registering authority. The learned Additional Advocate General submitted that in respect of the property that is the subject matter of the mortgage deed, a Memorandum of Understanding had been entered into between SR Trust of which the petitioner's principal is the managing Trustee and Sunmed Health Care Pvt Ltd and that the registration of the said MoU has serious stamp duty implications. Since the said document has been impounded, the petitioner has filed WP(MD)No.4658 of 2021 and that this Court is yet to pronounce order on the



said issue. It is for this reason, the registering authority had some reservations regarding registration of the deed of mortgage. He also would add that the deed of mortgage has not been formally presented online.

5. When I wanted to know what would be the stand of the respondent if the deed of mortgage is presented online, the learned Additional Advocate General submitted that subject to the other usual formalities, the document would be registered. He however made it clear that the registration of the deed of mortgage would be subject to the outcome of WP(MD)No.4658 of 2021 pending before this Court. In other words, the deed of mortgage would be subject to prior charge. In my view, this is too obvious and does not require any clarification from this Court. Since the registering authority has undertaken to register the deed of mortgage presented by the petitioner, subject to the fulfillment of other usual formalities, this Contempt Petition is closed by recording the same.

06.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To
The Joint Sub-Registrar, Madurai North-1,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Y.Othakadai, Madurai – 625 107.



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G.R.SWAMINATHAN, J.

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