



W.P.(MD)No.18271 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.18271 of 2023

Palaniyappan

... Petitioner

versus

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.120, Santhome High Road,
Chennai – 600 028.

2. The District Registrar (Administration),
Office of the Registration Department,
Pudukkottai,
Pudukkottai District.

3. The Sub Registrar,
Sub Registrar Office,
Thirumayam.

4. L.Govindan

5. Lakshmanan

6. Seethalakshmi

(R4 to R6 are impleaded vide order
dated 17.08.2023 in W.M.P.(MD)No.
16233 of 2023)

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Refusal Check Slip No.RFL/Thirumayam/158/2023 dated 30.06.2023 issued by the 3rd respondent and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently, direct the 3rd respondent to register the Deed executed by the petitioner in connection with property comprised in Survey No.225/1A to an extent of 10.14.50 hectares situated at Melur Village, Thirumayam Taluk, Pudukkottai District.

For Petitioner : Mrs.M.Krishnaveni,
Senior Counsel
for Mr.G.Mathavan

For R1 to R3 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

For R4 and R5 : No appearance

For R6 : Mr.R.Anantha Raj

ORDER

The petitioner claims that one Ramaiah, who is aged about 92 years old, had executed a General Power of Attorney deed in his favour vide document No.2347/2023 dated 19.06.2023 for the property in



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Survey No.225/1A to an extent of 10.14.50 hectares situated at Melur Village, Thirumayam Taluk, Pudukkottai District, giving authorization to sell the properties in favour of third parties. Since his principal intended to sell his property for want of money for his medical expenses, he executed a sale deed in favour of one Nirmal Raj. When he produced the said sale deed for registration, the 3rd respondent has refused to register the same by referring two documents, which were registered in respect of the property in Survey No.225/1A in the year 2017-2018 as document No.1716/2017 and 1795/21018 respectively. As against the same, the present writ petition has been filed.

2. According to the petitioner, his principal Ramaiah has purchased the property in Survey No.225/1A to an extent of 3 acre 30 cents from one S.A.A.Ramakrishnan in the year 2011 through a registered sale deed vide document No.3532/2011. While so, one Govindan has executed a Settlement deed with respect to the land in S.No.225/1A to an extent of 25.06 acres in favour of his son



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G.Lakshmanan that he acquired the property by way of patta issued to him in patta No.3188. The said settlement deed has been registered as document No.1716/2017. The said G.Lakshmanan has sold the property in favour of one Seethalakshmi by Document dated 03.09.2018 and the same was registered as Document No.1795/2018. On knowing the same, his principal has given a complaint under Section 77(A) of the Registration Act. Now, the third respondent, by referring the above two documents, has refused to register the sale deed executed by the petitioner.

3. The learned Senior Counsel appearing for the petitioner submits that by referring to a Circular dated 08.11.2013 issued by the Inspector General of Registration in No.18223/C1/2013-3, the third respondent/the Sub Registrar, Thirumayam, has refused to register the sale deed executed by the petitioner. By the said circular, the Inspector General of Registration has issued a direction to the Sub Registrars to verify the documents before registration and to identify whether the



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persons, who have submitted the documents, are the owners of the property. By referring those two documents and also the encumbrances which were made on the subject property, the impugned refusal check slip has been issued. She further submits that the petitioner's principal is now aged about 92 years. Therefore, she seeks for early disposal of this writ petition.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submits that the petitioner's principal, Ramaiah, has also submitted an application to cancel the settlement deed registered as document No.1716/2017 and sale deed dated 03.09.2018 registered as Document No.1795/2018 and the same is pending before the second respondent/the District Registrar, Pudukkottai. However, in view of the orders passed by this Court, the proceedings initiated under Section 77A has not been culminated so far.

5. The learned counsel appearing for the 6th respondent submits



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that the 6th respondent has duly purchased the property in the year 2018 and the same is registered as document No.1795/2018 dated 03.09.2018 and the petitioner's grievance can be redressed only before the proceedings which had already initiated under Section 77A of the Registration Act.

6. This Court has considered the rival submissions and perused the materials available on record.

7. One Ramaiah, who is aged about 92 years old, had executed a General Power of Attorney deed in favour of the petitioner vide document No.2347/2023 dated 19.06.2023 for the property in Survey No.225/1A to an extent of 10.14.50 hectares situated at Melur Village, Thirumayam Taluk, Pudukkottai District, giving authorization to sell the properties in favour of third parties. Since the petitioner's principal intended to sell the property for want of his medical expenses, the petitioner executed a sale deed in favour of one Nirmal Raj. When he



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presented the sale deed for registration, the third respondent has refused to register the same by referring two documents registered in the year 2017 and 2018 in favour of the 5th and 6th respondents.

8. The Inspector General of Registration has issued the Circular No.18223/C1/2013-3 dated 08.11.2013 which has also been referred in this impugned order. As per the said circular, the registering authority is supposed to scrutinize the document and to ascertain whether the person is having title before registering the document. It is not known as to whether the third respondent/the Sub Registrar, Thirumayam, has ascertained the same before registering the documents registered in favour of the 5th and 6th respondents in the year 2017 and 2018.

9. It appears that the petitioner's principal has already filed a complaint under Section 77A of the Registration Act to cancel the documents which were registered in favour of the respondents 5 and 6 in the year 2017 and 2018 respectively, however, the same could not be



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proceeded in view of the order passed by this Court in ***S.M.***

Hajabakrutheen Vs. The Inspector General of Registration [W.P.

(MD) Nos. 14546 of 2022 batch, dated 27.03.2023]. Since the applicability of Section 77A for the documents which were registered prior to August 2022 is referred to the Larger Bench and till the reference is answered, the application under Section 77A cannot be proceeded.

10. In this case, the land owner is aged about 92 years old and he is in need of money for his medical expenses and therefore, in order to meet out his medical expenses, the land owner has now come forward to sell the property, but, the sale document could not be registered in view of the registration of two documents, which were already made in the year 2017 and 2018.

11. Section 68 of the Registration Act, 1908 reads as under:

*68. Power of Registrar to superintend and control
Sub-Registrars.—*



(1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

12. In this case, the instruction issued by the Inspector General of Registration in the Circular dated 08.11.2013 has to be complied with for the previous documents also. Therefore, an enquiry shall be conducted as per Section 68(2) of the Registration Act, 1908, with regard to the documents which were registered in favour of the respondents 5 and 6 in the year 2017 and 2018 as to whether the same were registered as per the instruction issued under the Circular dated 08.11.2013, after providing an opportunity of hearing to the parties



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concerned, within a period of 12 weeks from the date of receipt of a copy of this order. The petitioner and his principal can work out their remedy for cancellation of documents under Section 77A of the Registration Act, after the reference is answered.

13. Accordingly, this writ petition is disposed of. No costs.

26.09.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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No.120, Santhome High Road,
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B.PUGALENDHI, J.

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