



W.P.(MD)No.12903 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.12903 of 2016

and

W.M.P.(MD).No.9728 of 2016

N.Ganesamoorthy

... Petitioner

Vs.

The Sub Registrar,
O/o.Sub Registrar,
Thiruvarumbur Taluk,
Trichy.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the respondent vide Check Slip No.2/2016 dated 13.07.2016, quash the same and consequently direct the respondent to register the cancellation of General Power of Attorney of the petitioner.

For Petitioners :Mr.M.subash Babu

For Respondents :Mr.M.Ramesh
Government Advocate



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ORDER

The writ petition has been filed challenging the order passed by the respondent refusing to register the cancellation of Power of Attorney dated 08.06.2015.

2. The case of the petitioner is that the petitioner proposed to cancel the power and had presented a document on 27.06.2016. The respondent herein refused to accept the document for cancellation and had directed the petitioner to produce the original will by which he had claimed title to the property.

3. The learned counsel for the petitioner would submit that such a direction is wholly arbitrary, when having accepted the power of attorney for registration. He would also contend what the petitioner seeks to cancel the power of attorney executed by him, which would not create interest to any 3rd parties. The circular that is sought to be relied upon by the respondent, in which, when a document is sought to be registered, for transferring any right or interest in the property, only then the respondent



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could insist upon proof of title. Here the document seeks to only cancel the power of attorney given by the petitioner, in favour of the 3rd party. Hence, he would seek interference of this Court.

4. Countering his arguments, the learned Government Advocate would submit that the circular has been issued by the Higher Authority, instructing the respondent not to register any documents unless or until the presenter of the documents produce documents showing his/her title to the property. He would also submit that under the impugned order, the respondent had not refused to register the document and only directed the petitioner to produce the Will to substantiate the title to the property. Therefore, there is no error in the part of the respondent.

5. I have considered the rival submissions made by the learned counsel for the petitioner, as well as the learned Government Advocate appearing for the respondent.



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6. The document, that is sought to be registered, is a cancellation of the power of attorney that is executed by the petitioner. It is not in dispute that the petitioner had earlier executed a power of attorney on 08.06.2015 and the same has been registered bearing Document No.3107/15, on the file of the respondent herein. It is also not the case of the respondent that it is not the petitioner who had executed the said power of attorney. When what is sought to be registered is to undo the action already done, there is no necessity for the respondent to seek proof of title to the property. All he has to do is to verify as to whether it is the same person, who had executed the document earlier, is seeking to cancel the document.

7. Therefore, I am of the view that the order impugned, calling upon the petitioner to produce a document of Will, through which he claims the right to the property, is unnecessary for registering the cancellation of the power of attorney.

8. In the light of the above, the check slip issued by the respondent is quashed and the respondent is directed to register the



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cancellation of power of attorney executed by the petitioner, presented to him for registration.

9. Accordingly, the writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbn

To

The Sub Registrar,
Thiruvarumbur Taluk,
Trichy.



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K.KUMARESH BABU, J.

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