



W.P.(MD)No.3014 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.3014 of 2016
and W.M.P(MD).No.2639 of 2016

M.Syed Ali

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The District Registrar,
Pudukkottai Registration District,
Pudukkottai.

3.The Sub Registrar,
O/o.The Kulathur Sub Registrar at Keeranur,
Keeranur Post,
Pudukkottai District.

4.Gandhi

5.G.Latha

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the third respondent to accept the petitioner's cancellation of Power of Attorney Deed in respect of



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Power of Attorney executed in favour of the fourth respondent in Document No.144/Bh4/2002 dated 25.09.2002 within a stipulated time may be fixed by this Court.

For Petitioner :Mr.M.Saravanakumar

For Respondents :Mr.M.Prakash
Additional Government Pleader
for R1 to R3
No appearance
for R4

ORDER

The petitioner seeks a direction to the third respondent to accept the cancellation of power of attorney deed in respect of the power of attorney executed in favour of the fourth respondent under Document No.144/Bh4/2002.

2. The fourth and fifth respondents took an adjournment at the hearing on 15.03.2023. Thereafter, they were not represented at the hearing on 23.03.2023 and at today's hearing. Consequently, the matter is proceeded with in the absence of the respondents 4 and 5.



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3. Learned counsel for the petitioner submits that the petitioner had availed of a loan from the fourth respondent. At that juncture, a power of attorney was executed in favour of the fourth respondent under Document No.144/Bh4/2002. The petitioner asserts that the loan was duly repaid. Upon such repayment, it is stated that the petitioner issued a notice to the fourth respondent and communicated the intention to revoke the power of attorney. In spite of receipt of such notice, it is stated that the fourth respondent fraudulently executed a sale deed in favour of the fifth respondent, who is his wife. The present writ petition is filed in these facts and circumstances.

4. Learned counsel for the petitioner submits that the sale deed executed by the fourth respondent in favour of the fifth respondent is fraudulent and the registration is liable to be cancelled. He places reliance on the judgment of the District Munsif, Keeranur, in O.S.No.61 of 2014. He points out that the said suit was filed by the fifth respondent herein against the petitioner and one S.Mohammed Abdullah. By a detailed judgment, he submits that the suit for permanent injunction seeking non-interference with



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the suit schedule property was dismissed. He also points out that the court examined the validity of the sale deed and concluded that since the validity of the sale deed was questioned, the plaintiff therein should have sued for a declaration of title.

5. The position prevailing today is that by acting as the agent of the petitioner, a sale deed dated 18.06.2008 bearing Document No. 3105/2018 was executed and registered by the fourth respondent in favour of the fifth respondent. In these facts and circumstances, the request of the petitioner to register the deed of cancellation of the power of attorney does not advance the cause of the petitioner. The petitioner should initiate appropriate proceedings either under Section 77A of the Registration Act, 1908 (the Registration Act) or by instituting a civil suit seeking cancellation of the relevant sale deed. As regards proceedings under Section 77A of the Registration Act, the question as to whether the said provision is retrospective or retroactive or prospective is pending consideration before the Hon'ble Division Bench of this Court. The outcome of the matter pending before the Hon'ble Division Bench of this Court would have a



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bearing on the petitioner's request under Section 77A of the Act.

6. For reasons set out above, W.P(MD).No.3014 of 2016 is disposed of by leaving it open to the petitioner to approach the jurisdictional Sub Registrar under Section 77A of the Registration Act or file a civil suit before the jurisdictional civil court. It is made clear that no opinion has been expressed on the merits of the matter. There shall be no order as to costs. Consequently, connected W.M.P(MD).No.2639 of 2016 is also closed.

06.04.2023

NCC :No
Internet :Yes
Index :No
ssb

To
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Santhome High Road,
Chennai.



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SENTHILKUMAR RAMAMOORTHY, J.

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