



WEB COPY



W.A.No.522 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.522 of 2024
and
C.M.P.No.3621 of 2024

1. Pankaj K. Patel

2. Ashok R. Patel ... Appellants/5th & 6th Respondents

Vs.

1. K.R.M. Home Makers Pvt. Ltd.,
Rep. By Its Director, M.S. Moorthy,
S/O. Mr. Mahalingam,
Having Its Office At No. 101 Inchakkal Block,
Chitra Avenue, No.9, Choolaimedu High Road,
Choolaimedu, Chennai-94. ... 1st Respondent/Petitioner

2. The Inspector General of Registration,
Registration Department,
No. 100 Santhome High Road,
Chennai-28.

3. The District Registrar,
North Chennai, Registration Department,
Kuralagam, NSC Bose Road, Chennai-01.

4. The Sub Registrar,
Madhavaram, Chennai-60.



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5. The Country Manager, Bank Of Ceylon,
New No. 2, Old No. 11, Zerat Garden 2nd Lane,
20/21 Casa Major Road, Egmore Branch,
Chennai-08.

... Respondents/Respondents

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.12.2023 in W.P.No. 31340 of 2023.

For Appellant : Mr.V.Raghavachari, Senior Counsel for
Mr.M.L.Joseph for
Chennai Law Associates.

For Respondents : Mr.A.L.Somayaji, Senior Counsel, for
Mr.A.Uma Shankar (for R1);

Mr.B.Vijay,
Additional Government Pleader,
(for R2 to R4);

Mr.A.V.Radha Krishnan (for R5).

J U D G E M E N T

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The Intra-Court Appeal on hand has been instituted challenging the order dated 22.12.2023 passed in W.P.No.31340 of 2023.

2. The issue raised in the present Appeal is whether the general Power of Attorney, executed in favour of the writ petitioner, K.R.M. Home Makers Pvt. Ltd., can be cancelled or not.



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3. It is not in dispute that general deed of Power of Attorney was executed on 28th of September 2015 by the appellants herein, in favour of the 1st respondent K.R.M. Home Makers Pvt. Ltd.,. The deed of Power of Attorney relates to the Joint Venture project and the principals are the land owners and the first respondent is a builder.

4. The learned senior counsel appearing on behalf of the first respondent would contend that the Power of Attorney shall be valid and will be in force till the objects are fully achieved. Therefore, it is irrevocable. That apart, the first respondent has already invested some amount and the appellants/ principals executed a declaration confirming the settlement. The declaration executed by the appellant/principles would reveal that the Power of Attorney is coupled with interest and is irrevocable. Therefore, the revocation of Power of Attorney is contrary to law and the learned Single Judge has rightly allowed the writ petition.

5. The learned Senior Counsel Mr.V.Raghavachari would oppose the contention by stating that the declaration is not a registered document. Mr.V.Raghavachari would further contend that the registered general



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Power of Attorney itself stipulates that “no consideration is received for the powers hereby granted and the accounts shall be maintained by the agent in respect of transactions touching upon the schedule mentioned property.” The declaration was given in an unregistered document and was obtained by the first respondent and certain transactions are now running counter to the understanding between the parties.

6. We have found that disputed facts between the parties exist regarding settlement of accounts and to complete the project and to sell the flats to the third parties. Such disputed facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Admittedly, it involves contractual obligations between the parties. A roving inquiry cannot be conducted by the High Court in a writ proceedings. Thus, the parties are to be relegated to approach the competent Civil Court of law for the purpose of resolving the issues. The issue relating to the cancellation of general Power of Attorney, it can be cancelled unilaterally by the principal.

7. In the present case, the appellants had cancelled the Power of Attorney, which was under challenge in the writ proceedings. The learned



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Single Judge made a finding that the Power of Attorney, coupled with interest cannot be cancelled. Considering the fact that no consideration is received for the power granted in favour of the first respondent by the appellants and further the fact that several other transactions are involved, which all are contractual in nature, including the statement of accounts, borrowal of loan from banks etc., the parties have to resolve the issues through Civil Court of law or by negotiation, as the case may be.

8. Thus, the parties are relegated to approach the competent Civil Court of law for adjudication of disputed issues and resolve the same in the manner known to law. Till such time, the Civil Suit is instituted by either of the party, the appellants and the first respondent are directed not to alienate or encumber the subject property.

9. The learned Senior Counsel, Mr.A.L.Somayaji, appearing on behalf of the 1st respondent would submit that the first respondent has already paid a sum of Rs.32,00,00,000/- (Rupees Thirty Two Crores) to the appellants. But the said statement is denied by the learned Senior Counsel, Mr.V.Raghavachari, appearing for the appellants.



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10. Accordingly, the order impugned dated 22.12.2023 in W.P.No.31340 of 2023 is quashed and the writ appeal stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

06.03.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

1. The Inspector General of Registration,
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No. 100 Santhome High Road,
Chennai-28.

2. The District Registrar,
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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

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