



W.P. No.4982 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.4982 of 2024 and
W.M.P. No.5471 of 2024

G.Kalaiarasan

... Petitioner

Vs

1.The Inspector General of Registration
No.100, Santhome High Road
Santhome, Chennai - 600 028

2.The District Registrar
No.10, Kanchipuram High Road
Kancheepuram Bazar, Chengalpattu - 603 002

3.The Sub Registrar
J354 + M7F, Oragadam R.F.,
Thirukazhukundram - 603 109
Chengalpattu District

4.C.Senthil Kumar

5.C.Rajeshkumar

6.N.Jayakumari

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent, to cancel the certificate issued by the third respondent on 26.12.2015 for the settlement deed bearing Document No.976/2008 dated 26.02.2008 on the file of third respondent as original document, and also made entry in Schedule - II and Volume, under G.O. Ms. No.120/Commercial Tax and Registration Department dated 7.12.2015, as the original certificate endorsement was obtained by fraud and direct to make an appropriate entry in encumbrance certificate about the cancellation.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Mr.L.S.M.Hasan Fizal,
Addl. Govt. Pleader for R1 to R3
Govt. Advocate for R1 to R4
Mr.K.Govi Ganeshan for R4 to R6

ORDER

This writ petition has been filed for a direction to the third respondent, to cancel the certificate issued by the third respondent on 26.12.2015 certifying that the settlement deed bearing Document No.976/2008 dated 26.02.2008 registered on the file of third respondent is original, and also the entry made in Schedule - II and Volume, under G.O. Ms. No.120/Commercial Tax and



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Registration Department dated 7.12.2015, as the original certificate endorsement was obtained by fraud and for a further direction to the third respondent to make appropriate entry in the encumbrance certificate about the cancellation.

2. It is the case of the writ petitioner that he is the power agent of respondents 4 to 6. According to him, in the year 2012, the respondents 4 to 6 have executed a power of attorney in his favour. At that time, the respondents 4 to 6 have handed over the original settlement title to the petitioner. However, during 2015, the respondents 4 to 6 have obtained an endorsement from the registering authority to the effect that the original document has been lost in the floods and sought a direction to the registering authority to take action to cancel the endorsement. According to the petitioner, the original document is with him.

3. Heard both sides and perused the materials available on record in the form of typed set of papers.

4. The third respondent has filed a counter affidavit. It is the contention of the third respondent that the power of attorney executed in favour of the



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petitioner was cancelled on 26.08.2020. It is further alleged that handing over of the document was not mentioned in the original power of attorney. An endorsement was made and certified copies have been issued as per G.O. Ms. No.120/Commercial Tax and Registration Department dated 7.12.2015. The endorsement is made for the lost documents. Hence the third respondent opposed the writ petition.

5. It is the contention of the learned counsel for the petitioner that since the original document is with the petitioner and citing G.O. Ms. No.120 and obtaining an endorsement by the respondents 4 to 6 as if the original document has been lost, is a clear suppression of material facts and such an endorsement has been fraudulently obtained by them. Therefore, such endorsement has to be cancelled. It is his further contention that similarly to cancel the settlement deed, a suit was also filed which came to be dismissed in the year 2008 itself. According to the learned counsel for the petitioner, the power is coupled with interest and further he is not claiming any right over the property nor any right on the basis of power of attorney. Thus his only endeavour is to cancel the endorsement illegally obtained by the respondents 4 to 6. Hence he seeks a direction.



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6. When the writ petition came up before this court on 25.04.2024, this court has directed the writ petitioner to produce the original documents, if any with him. However, the same has not been produced and again the matter was posted on 30.04.2024. Even on 30.04.2024, the same has not been produced and hence the matter was adjourned to 04.06.2024. On 04.06.2024, this court has passed the following order and directed the Registry to be list the matter on 04.06.2024. The same reads as follows:

"Despite the direction of this court to produce the original documents, the same has not been produced by the petitioner on one pretext or other. On some other pretext, the learned counsel seeks an adjournment.

2. According to the learned counsel for petitioner, now the matter will be settled among the parties and seeks a week's time to report settlement. The submission of the learned counsel is recorded.

3. Post the matter finally on 12.06.2024 and if no such documents are produced, the writ petition will be disposed of on its own merits."

7. Today, the learned counsel for the petitioner submitted that the petitioner has produced the document said to be the original. Be that as it may,



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the writ petitioner is merely an agent appointed in the year 2012. It is his contention that the power of attorney is coupled with interest, but on a perusal of the power of attorney, there is no material, whatsoever, even to infer the power is coupled with interest. Further, it is also to be noted that the power of attorney was cancelled as early as 2020. This fact is not in dispute. Therefore, merely on the basis of the power of attorney, one cannot make a claim over the property. The manner in which the petitioner making demand in the year 2024 in respect of an immovable property owned by somebody, makes it very clear that the petitioner's contention even assumed to be true, cannot be accepted. In fact he wants to lay the claim on the basis of the power of attorney, after passage of 12 years. What he could not achieve before the competent civil court, is trying to achieve before this court by way of filing this writ petition by citing the endorsement obtained by the respondents 4 to 6 before the registering authority, while obtaining certified copies. Even assuming that certified copies have been obtained, this court is of the view that considering fact that the original is already with the petitioner, preventing the owners from enjoying or dealing with the property, the owners have no other go except to obtain certified copies, as per the Government Order referred supra. Therefore, the respondents have opted to obtain the certified copies by citing some reasons. Even assuming



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that they have given a statement to the effect that the original document has been lost, it cannot be put against him, considering the facts and circumstances of this particular case, since the agent is taking an undue advantage of the fact that he had original document all these years and prevented the true owners from enjoying the properties. In such view of the matter, I find that this writ petition is nothing but an abuse of process and only to blackmail the true owners without any semblance of right.

8. At this stage, the learned counsel appearing for the petitioner would submit that the petitioner has paid a sum of Rs.30.00 Lakhs to the respondents 4 to 6. Therefore, that amount has to be paid to him. Per contra, the learned counsel appearing for the respondents 4 to 6 would submit that only a sum of Rs.25.00 Lakhs alone was paid to them by the writ petitioner and the respondents 4 to 6 are ready to pay that amount, within a period of eight weeks from today. In such view of the matter, as the parties have agreed with regard to payment, the respondents 4 to 6 shall pay a sum of Rs.25.00 Lakhs to the petitioner, within a period of eight weeks from today . On such payment, the petitioner shall return the original documents to the respondents 4 to 6.



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9. With the above direction, the writ petition is disposed of. No costs.

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Consequently, the connected writ miscellaneous petition is closed.

12.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

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4.The Government Pleader

High Court, Madras

N.SATHISH KUMAR, J.

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