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Writ Appeal No.538 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01.2024

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**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.538 of 2020

T.Sivaraj,
S/o.Thangamuthu

... Appellant

Vs.

1. The District Registrar,
Coimbatore District.

2. The Sub-Registrar,
Singanallur, Coimbatore – 641 016.

3. P.Sundaram,
S/o.Palanisamy Gownder

4. A.Vijayakumar,
S/o.Late Ayyasamy Gownder

.. Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.No.30241 of 2019 dated 24.10.2019.

For Appellant : Mr.S.Ramajayam

For Respondents : Mr.R.Kumaravel,
Additional Government Pleader
[R1 & R2]
Mr.T.Suresh [R3]
Mr.N.S.Ganesh [R4]



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JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This writ appeal has been directed against the order dated 24.10.2019 made in W.P.No.30241 of 2019.

2. Pursuant to the series of order, which we have passed during the last hearings, the third respondent i.e., P.Sundaram had been brought before this Court by the Sub-Inspector of Police, E2, Peelamedu Police Station, Coimbatore City. We verified the identification of the third respondent and he has also represented by Mr.T.Suresh, learned counsel. Though he has made a submission stating that the general power of attorney dated 11.12.2002 has not been signed by the third respondent, it should be noted that the said general power of attorney has been registered duly before the concerned Register Office, therefore, *prima facie* the said defence taken by the third respondent through his counsel cannot be countenanced.

3. If it is a duly registered general power of attorney, whether the same has been subsequently cancelled in the manner known to law by the



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principal i.e., third respondent before the actual date of sale deed, which is taken place or executed on 29.05.2019 is a matter to be resolved by themselves.

4. Insofar as the present lis is concerned, when the sale deed was presented before the Sub-Registrar, Singanallur for registration, he had demanded the life certificate of the principal i.e., the third respondent because the power has been executed on 11.12.2002, whereas the sale deed said to have been executed on 29.05.2019, in view of the long gap between the power and the sale deed, it become natural of any officer like the Sub-Registrar for demanding the life certificate of the principal and he has rightly done.

5. Since such a life certificate has not been produced by the petitioner/appellant, the check slip dated 29.05.2019 was issued by the Sub-Registrar refusing to register the document in question, which was assailed before the Writ Court by the writ petitioner/appellant in W.P.No.30241 of 2019.



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6. Recording the said factual matrix, since the life certificate has not been produced, the learned Judge sustained the refusal check slip issued by the Sub-Registrar dated 29.05.2019 and accordingly, the writ petition was dismissed by the impugned order.

7. During the pendency of this writ appeal, during last several hearings, we have passed orders to ensure the presence of both the third and fourth respondents, as the third respondent is the principal and the fourth respondent is the power holder. Earlier, fourth respondent through his counsel appeared, however the third respondent did not appear, therefore, we issue bailable warrant against him, pursuant to which, the police authorities has brought the third respondent before this Court.

8. Now this Court go into the question, whether the sale deed in question has been executed properly by the Power holder i.e., by the fourth respondent on behalf of the third respondent or not. In this context, the only requirement of the Registration Department is, the life certificate of the third respondent, which was demanded by them, therefore, it is for the parties to work out their remedy to get the life



certificate of the third respondent, unless and until the life certificate of the third respondent is produced before the Registering Authority, the Sub-Registrar concerned, need not register the document. Therefore, such refusal check slip cannot be successfully questioned by the writ petitioner/appellant. Therefore, the order passed by the learned Judge is to be sustained.

9. However, now it is open to the third respondent to produce the life certificate and after obtaining the same it can be produced by the petitioner along with the fourth respondent i.e., the power holder before the Sub-Registrar, Singanallur, who on receipt of the same, after verifying the life certificate and its genuinity can proceed the sale deed executed on 29.05.2019.

10. It is made clear that, unless such life certificate is produced, the second respondent Sub-Registrar shall not register the sale deed in question under any circumstances.



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and
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With these observations and directions, this Writ Appeal is disposed of. No costs.

(R.S.K.,J.)

(K.B., J.)

29.01.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
mp

To

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