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W.P.No.7536 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.7536 of 2023 & WMP No.7646 of 2023

1. P.Selvam
2. S.Yogeshwaran ... Petitioners

Vs

1. The District Registrar,
Chennai – Central, Chennai – 14.
2. Geetha ... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records of the first respondent in Na.Ka.No. 8472/ Aa2/ 2022 dated 13.12.2022 cancelling the document Nos. 1042/ 2012 and 1435/ 2022 on the file of the SRO Kodambakkam and quash the same as illegal without jurisdiction.

For Petitioner : Mr.J.Kamaraj

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader – R1
Mr.R.Ravichandran – R2



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ORDER

This Writ Petition has been filed to quash the impugned Order in Na.Ka.No. 8472/ Aa2/ 2022 dated 13.12.2022 cancelling the document Nos. 1042/ 2012 and 1435/ 2022 on the file of the SRO Kodambakkam and as illegal and without jurisdiction.

2. The case of the petitioners is that on 19.06.2000 one S.Thirupurasundari executed a General Power of Attorney appointing one Jayakumar as her power agent to develop the property allowing him for execution and registration of the sale deeds in respect of 80% of Undivided share in the land to the prospective purchasers. The said Power Agent Jayakumar constructed ground plus four floors of residential building with 10 dwelling units and obtained completion certificate on 29.06.2004. Thereafter, the said Jayakumar executed a sale deed on 28.03.2012 in favour of his wife and the writ petitioners are subsequent purchasers by way of registered sale deed dated 31.03.2022. The sale deeds were cancelled mainly on the ground that the said documents were registered after the death of the principal.



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3. It is the contention of the learned counsel appearing for the petitioner that though the Power of Attorney deed styled as General Power of Attorney, it is a power coupled with interest. The power agent was given absolute power to construct and sale of the 80% of the property. Only 20% of undivided share, one flat in the ground floor was retained by the principal. The Power Deed itself clearly indicate that the power is valid till the entire project is completed. Therefore, according to him, the power is coupled with interest. Hence, submitted that the documents could not have been cancelled.

4. Counter filed by the private respondent, viz., the second respondent would indicate that the Power was originally given to the brother of the power agent Jayakumar, one K.Sridharan to construct the ground floor plus two floors in the property and he has constructed ground plus two floors. Thereafter, the subsequent power agent, the said Jayakumar, has constructed third and fourth floors, each floor having two flats, totally four flats. Though the construction was completed on 29.06.2004, he did not sell four flats and kept the same vacant.



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Thereafter, when the second respondent verified the records, she came to know that the property has been sold later, after the death of her mother-in-law. Hence, prayed for dismissal of the Writ Petition.

5. I have perused entire records. The writ petitioners are subsequent purchasers. The power agents constructed the building and the principal retained only 20% in the entire property and allowed the power agent to deal with the property for more than 80% and the same clearly indicate that the power is given to the parties with some consideration. Though the document did not reflect any consideration, the power has been given coupled with interest. These facts have to be proved only in the Civil Court. Whether the construction has been put up by the agent by spending his own money is a matter of evidence and it has to be decided by a Civil Court. In the event such facts have been established, the documents cannot be invalidated. The writ petitioners are permitted to file a suit making his vendor and earlier power agent as a party and the Civil Court shall decide the matter on its own merits and till such time, the cancellation Order passed by the first respondent shall



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not be given any effect. The writ petitioners shall file a suit within a period of three months date of receipt of a copy of this Order. The Civil Court shall decide the suit on its own merits without influenced by findings of the registration authorities.

6. Accordingly, this Writ Petition is dismissed of. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

The District Registrar,
Chennai – Central, Chennai – 14.



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N.SATHISH KUMAR, J.

VTC

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