



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10062 of 2024
and W.M.P.Nos.11071 & 11074 of 2024

Venkataraman

...

Petitioner

versus

1.The District Registrar,
Office of the District Registrar,
Tiruvallur District.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Poonamallee,
Chennai - 600 056.

3.V.Suga

4.Ashwin

5.M/s.Vijay Raja Homes Private Limited,
Represented by its Authorized Signatory,
No.50, Bharathi Street,
West Vasudevan Nagar,
Jafferkhanpet,
Chennai - 600 083.

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order in Na.Ka.No.82/2024 dated 16.03.2024 from the file of the second respondent and quash the same and consequently direct the second respondent to register and release the sale deed dated 30.01.2024 in Doc.No.P13/2024.

For Petitioner : Mr.G.Santhosh Kumar

For Respondent Nos.1 & 2 : Mr.B.Vijay
Additional Government Pleader

For Respondent No.3 : Mr.B.Jawahar

For Respondent Nos.4 & 5 : Mr.S.Jaganathan

ORDER

This writ petition has been filed challenging the order dated 16.03.2024 issued by the second respondent, whereby he refused to register the sale deed presented by the petitioner for registration.

2. The brief facts leading to the filing of the writ petition are as follows:-

(i) The third respondent, who is the original owner of the property, has executed a Power of Attorney dated 19.06.2020 in favour of the fifth



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respondent in respect of the plots. Pursuant to the Power of Attorney, the fifth respondent has executed several sale deeds conveying UDS to various purchasers. Thereafter, it appears that the fifth respondent also conveyed unsold UDS to the fourth respondent under the sale deed dated 21.10.2023, which has been registered in Document No.6843/2023. Thereafter, it appears that memorandum of title deeds was also executed in favour of the Bank. On 30.01.2024, the fifth respondent has executed a sale deed in favour of the petitioner conveying Flat No.B428 together with 196.34 UDS. Subsequently, the third respondent cancelled the original Power of Attorney dated 19.06.2020 executed in favour of the fifth respondent.

(ii) It is the grievance of the third respondent that the power agent has sold excess land and thereafter, he has created documents in favour of the fourth respondent and also the other borrowers. According to the fourth respondent, all the documents were fraudulently created. The main grievance appears to be that he has not received any payment for sale consideration as agreed. Pursuant to the complaint given by the third respondent, the impugned order came to be passed.



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3. The learned counsel for the petitioner would submit that the impugned order cannot be sustained in the eye of law. The power agent has executed several sale deeds and proper sale consideration has also been paid to the third respondent.

4. Now, whether the sale consideration is paid or not is a matter of evidence and that cannot be decided by the District Registrar. Therefore, merely on the basis of the subsequent cancellation of the Power of Attorney, the earlier document executed cannot be withheld.

5. The learned counsel for the third respondent would submit that the sale consideration agreed has not been paid and the sale deed has been executed, violating the power of conditions in the Power of Attorney.

6. It is the submission of the leaned counsel for the petitioner that the Power of Attorney clearly stipulates the sale consideration to be paid directly to the principal. However, the same has not been paid.



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7. Whereas, the learned counsel for the respondents 4 and 5 would submit that an amount of more than Rs.7 crores has been paid in various transactions and cheques also been issued in this regard. Therefore, it is the contention that the complaint given by the respondent, namely the third respondent, to the authorities is only in order to make unjust enrichment. Hence, he opposed the impugned order.

8. On perusal of the entire allegations and the documents executed, it is seen that the third respondent has executed Power of Attorney in favour of the fifth respondent on 19.06.2020 and thereafter, he executed the sale deed in favour of the fourth respondent on 21.10.2023. Pursuant to the same, subsequent documents have been executed based on the title vested with the fourth respondent. Therefore, merely because the power given to the fifth respondent was cancelled subsequently, that is, after the performance of the act by power agent. Now, it cannot be said that the document registered based on the title already vested with the fourth respondent cannot be registered.



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9. The primary grievance of the third respondent appears to be non consideration of the payment. Whereas the learned counsel for the respondents 4 and 5 would submit that several amounts have already been paid. Since it is a matter of civil dispute and even assuming that the sale is not supported by the consideration, it is for the vendor to recover the amount exercising unpaid vendors lien in a competent Civil Court and not before the District Registrar.

10. It is also seen that even assuming that the Power of Attorney has not accounted properly, it is for the principal to seek for an account as per Section 215 of the Contract Act. This has to be proved on proper evidence in the civil forum and not by way of protest application before the District Registrar. Hence, the impugned order cannot be sustained in the eye of law.

11. In the result, this Writ Petition is allowed and the impugned order dated 16.03.2024 stands quashed and the second respondent is directed to register the document presented by the petitioner for registration, within a



period of one week from the date of receipt of a copy of this order. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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25.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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N.SATHISH KUMAR, J.

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