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W.P.No.11367 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.11367 of 2024 and
W.M.P.No.12467 of 2024

1.Mr.N.Seetharaman
2.Mr.R.Chandrasekar

... Petitioners

Vs.

1.The District Registrar (Admn),
Registration Department,
NH-66, Polur Road,
Mathalangulam, Tiruvannamalai,
Tiruvannamalai Dt.

2.The Sub-Registrar,
Sub-Registrar Officer,
No.1/183, Main Road,
Anna Nagar, Kalasapakkam,
Tiruvannamalai Dt.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings in Na.Ka.1795/A1/2024 dated 10.04.2024 and quash the same as arbitrary, illegal and against the provisions of the Registration Act, 1908 and consequently, direct the second respondent to complete the registration of the sale deed dated 26.03.2024 within a time frame to be fixed by this Court.



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For Petitioners : Mr.M.Venkatakrisnan
For Respondents : Mr.Yogesh Kannadasan, SGP

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings in Na.Ka.1795/A1/2024 dated 10.04.2024 and quash the same as arbitrary, illegal and against the provisions of the Registration Act, 1908 and consequently, direct the second respondent to complete the registration of the sale deed dated 26.03.2024 within a time frame to be fixed by this Court.

2. With the consent of both sides, this Writ Petition is disposed of at the admission stage itself.

3. Challenge has been made against the order passed by the respondents refusing to register the document. When the petitioners presented a sale deed in respect of 6/10 undivided share, the same was refused to be registered on the basis of the circular dated 07.01.2013. Challenging the same, an appeal has been filed before the first



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respondent. The first respondent allowed the appeal in part, setting aside the order of the Sub-Registrar refusing to register the document on the ground that life certificate has not been produced. However, the second respondent refused to register the document on the ground that the power of attorney holders themselves executed the document in their favour which is against the provisions of Contract Act. Hence, refused to register the document. Challenging the same, the present Writ Petition has been filed.

4. Heard Mr.M.Venkatakrishnan, learned counsel for the petitioners and Mr.Yogesh Kannadasan, learned Special Government Pleader for the respondents.

5. Though the impugned order has been challenged as the very order itself is against the substantive provisions of law and suffers from illegality, this Court is of the definite view that no counter is required. Only the persons who are alive, presented the document, the second respondent ought not to have held that the power of attorney holders are



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not entitled to register the properties in their favour.

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6. It is relevant to note that it is for the principal to avoid such transaction. As per Section 215 of the Contract Act, if the agent deals on his own account in the business of the agency, without first obtaining the consent of the principal and acquainting him with all material circumstances which have come to his own knowledge on the subject, the principal may repudiate the transaction, if the case shows, either that any material fact has been dishonestly concealed.

7. Therefore, the law does not prohibit such authority and only gives right to the principal to avoid such transaction. The District Registrar or Sub-Registrar exercising only executing power, cannot decide the rights of the parties assuming the role of the Civil Court. In such view of the matter, the impugned order is liable to be set aside.

8. With the above observations, this Writ Petition is allowed. The



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impugned order passed by the first respondent in Na.Ka.1795/A1/2024 dated 10.04.2024 is quashed. The second respondent is directed to register the document within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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N.SATHISH KUMAR, J.

gsk

To

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Tiruvannamalai Dt.

2.The Sub-Registrar,
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