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W.P.No.25552 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.25552 of 2023 and
W.M.P.No.24942 of 2023

A.Chidambaram

... Petitioner

Vs.

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

2.The District Registrar (Administration),
Chengalpattu, Chengalpattu District.

3.S.Rajagopal

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the issue of the impugned order dated 13.04.2023 passed by the second respondent in Na.Ka.No.4612/AA3/2022 and quash the same as illegal, without jurisdiction.

For Petitioner : Mrs.AL.Ganthimathi, Senior Counsel
for Mr.R.Sagadevan

For Respondents : Mr.B.Vijay, AGP for R1 & R2
Mr.P.Venkatraman for R3

ORDER



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This Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records relating to the issue of the impugned order dated 13.04.2023 passed by the second respondent in Na.Ka.No.4612/AA3/2022 and quash the same as illegal and without jurisdiction.

2. Heard Mrs.AL.Ganthimathi, learned Senior Counsel for the petitioner, Mr.B.Vijay, learned Additional Government Pleader for R1 & R2 and Mr.P.Venkatraman, learned counsel for R3.

3. The case of the petitioner is that in respect of 3.6 acres of land, the third respondent was appointed as a power agent by the registered power of attorney dated 15.09.2003. Pursuant to the said power of attorney, an extent of 2.82 acres has been sold by the third respondent. Thereafter, the power of attorney was cancelled by the registered document No.105/2007 dated 11.01.2007. Even after the cancellation, the third respondent has sold the property on 28.08.2007.



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4. Thereafter, a dispute arose and the matter is referred to Arbitration in the year 2013 in CrI.O.P.No.18438 of 2013. The learned Arbitrator was appointed by this Court. The learned Arbitrator recused himself in the year 2021 and thereafter, another retired Judge of this Court Mr.Justice.V.Bharathidasan was appointed as Arbitrator. During the pendency of the said proceedings, now, a complaint has been given on 02.08.2022 before the District Registrar for cancellation of the deed registered in the year 2007. Pursuant to the same, the District Registrar has passed the impugned order cancelling the said document. Challenging the same, the Writ Petition has been filed. The impugned order has been mainly passed on the ground that the suit in O.S.No.321 of 2004 pending on the file of the District Munsif, Chengalpattu filed by some other parties, wherein, some injunction order has been granted.

5. The respondents have not filed counter, despite opportunity being given.

6. It is the contention of the learned Senior Counsel that the order is *ex-facie* illegal and when the registered power of attorney is sought to be



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cancelled, the cancellation can be done by way of only registered instrument. The registration of cancellation deed was made in the year 2007. The complaint has been given only in the year 2022 and it has been entertained by the authorities.

7. The learned Additional Government Pleader for the respondents 1 and 2 there was an interim injunction in O.S.No.321 of 2004 against the Sub Registrar not to register any document. Pending the said suit, document has been registered. Hence according to him, the order has to be sustained.

8. I have perused the entire materials. This is a classic case of how the authorities exceed their power. What was sought to be cancelled is the cancellation of power of attorney deed executed in favour of the third respondent. The power was given in favour of the third respondent by the petitioner in the year 2006. Pursuant to the general power of attorney, 2.82 acres were already been dealt. In the meanwhile, the power of attorney was cancelled on 11.01.2007 by a registered deed of cancellation. That was sought to be cancelled in the year 2022, that too,



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after a lapse of several years. The agency can be terminated by the principal at any time by way of registered document. A reasonable notice of termination has to be given, when the agency is itself created on the basis of unregistered document. Whereas, cancellation of registered power of attorney can be by way of registered instrument. Registered instrument itself is a public notice, that apart, it is relevant to note that the third respondent was also aware of the termination of his agency in the year 2013 itself when the arbitration proceedings were initiated between the parties.

9. Such being the position, giving complaint in the year 2022 for cancelling the registration cannot be permitted in the eye of law. The third respondent in fact, sought to achieve what he could not do in the Civil Court. The authorities also mechanically and without application of mind entertained such complaint and cancelled the revocation deed. This infact indicates the manner in which the registration authorities exercise their power violating the rights of the parties without any enquiry or without even understanding substantive provisions of law.



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10. Therefore, when the law permits termination of agency by the principal at any time as per Section 201 and such power has been exercised properly, such document cannot be cancelled. It is to be noted that merely because some suit pending between the persons who were not connected with the petitioner and the third respondent, the order in that suit as against the Sub-Registrar would not have been used in the proceedings. Such order would not bind the petitioner and the third respondent dealing with the property. In such view of the matter, the order dated 13.04.2023 is liable to be quashed.

11. With the above observations, this Writ Petition is allowed and the impugned order dated 13.04.2023 passed by the second respondent in Na.Ka.No.4612/AA3/2022 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

22.04.2024

To

1.The Inspector General of Registration,



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2.The District Registrar (Administration),
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