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W.P.No.30105 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.30105 of 2024

N.Mansur Ali

...Petitioner

Vs

1.The Sub-Registrar,
Sub-Registrar Office,
Madurantakam,
Chengalpattu District.

2.P.Sivapriya

...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 03.09.2024 issued by the first respondent herein, quash the same and consequently direct the first respondent herein to register the pending document in P178/2024 dated 20.08.2024 viz., Power of Attorney, executed by the petitioner in favour of one M.Ayub Khan, release the same forthwith.

For Petitioner : Mr.G.Mageshkumar
For Respondents : Mr.B.Vijay (For R1)
Additional Government Pleader
: Mr.J.Abdul Hadi for R2



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ORDER

The Writ Petition has been filed for the issue of Writ of Certiorarified Mandamus to quash the order passed by the first respondent on 03.09.2024 and to direct the first respondent to register the power of attorney which has been kept pending.

2.The petitioner's contention is that the property measuring an extent of 15 cents comprised in punja Survey No.189/1A3B at Silavattam Village, Madurantakam Taluk, Chengalpattu District, belonged to one Padmanaban who had then settled the same in favour of his son Arumugam under a registered settlement deed dated 23.05.2022. The original documents were retained by the said Padmanaban. Patta bearing patta No.309 also stood in the name of Padmanaban. The petitioner would submit that the settlement deed had been acted upon and Arumugam had been put in possession and was enjoying the same. He had sold the property to the petitioner under a registered sale deed dated 02.06.2023 and the petitioner had mutated the revenue records. It is the further case of the petitioner that when he presented the power of attorney dated 20.08.2024 appointing one M.Ayub Khan as his agent, the



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first respondent refused to register and passed the impugned order. The reasons given were that the original sale deed of the year 1971 in the name of Padmanaban had not been produced. Objections were given by the second respondent stating that the settlement deed executed by Padmanaban in favour of Arumugam was a forged one and the patta that was attached with the settlement deed is in the name of Padmanaban and there was no clear title to the property. Challenging the same, the petitioner is before this Court.

3.The first respondent has filed a counter interalia, contending that the power of attorney deed was kept pending since the protest petition by the second respondent had been lodged on 04.10.2023. The first respondent therefore issued an enquiry notice dated 28.08.2024 to the petitioner and the second respondent regarding this pending document and the second respondent had given a reply dated 02.09.2024 regarding the enquiry notice stating that the settlement deed executed by Padmanaban in favour of Arumugam was a forged one. The refusal check slip was based on an enquiry report in respect of the document in question which clearly showed that the settlement deed was executed by some person impersonating as Padmanaban in favour of Arumugam. The



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custody of the original documents continued to remain with Padmanaban.

The respondent further stated that the petitioner has an alternative remedy in the form of an appeal under Section 72 of the Registration Act and without invoking the same the petitioner has rushed to this Court.

4.The second respondent has filed a counter stating that the original Padmanaban, her father, who is the owner of the property has never executed a settlement deed in favour of Arumugam. The said Padmanaban who is the father of the second respondent has retired as Head Master and now aged 86 years. He only has three daughters and does not have a son to call his name. The settlement deed has been created by some other person impersonating as the 2nd respondent's father. A detailed enquiry was held and the fraud had come to light. These proceedings had been deliberately suppressed in the Writ Petition.

5.Heard the learned counsels on either side and perused the records. The learned Additional Government Pleader has taken notice for first respondent.

6.The first respondent has submitted that during the enquiry it had



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come to light that the settlement deed in document no.2610/2022 was executed by a person who had impersonated the original owner, Padmanaban. The settlement deed would read that the document is being executed by Padmanaban in favour of his son Arumugam. In reality the said Padmanaban does not have a son and only has 3 daughters one of whom is the 2nd respondent herein. Therefore, on the face of it, the document appears to be a fraudulent document. Therefore, the petitioner has to first establish his title to the property and this can only be done by a Civil Court. Further he has also not challenged the report pursuant to the enquiry.

7. Accordingly the present Writ Petition is dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To
The Sub-Registrar,
Sub-Registrar Office,
Madurantakam,
Chengalpattu District.



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P.T.ASHA, J,

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