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W.P. No.32977 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.32977 of 2022 and

W.M.P. No.32378 of 2022

1.Mrs.G.Vinodhaya
2.M.Vigneswar
Represented by Power of Attorney
D.Kumaran

... Petitioners

Vs

- 1.The Inspector General (Registration)
No.100, Santhome High Road
Raja Annamalaipuram
Chennai - 600 028
- 2.The Deputy Inspector General (Registration)
26FJ+GV8 Integrated building for Offices of
the Commercial taxes and Registration Department
Fanepet, Nandanam, Chennai - 600 035
- 3.The District Registrar (Registration) Chennai North
Kuralagam Building, 1st Floor
Parrys, Chennai - 600 108
- 4.The Sub Registrar
Thiruvotriyur
- 5.M.Muthukumar
- 6.Raja



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7.Tmt.Girijalakshmi

8.Nagarajan

9.Tmt.Kalpana

10.Dharnandra

11.Ganapathy

12.Mrs.Rakhi Raja

13.Edward Collins

14.Tmt.Archana

15.Muthukrishnan

16.T.Santhan

17.Chandrasekaran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the 2nd respondent in Na. Ka. No.5642/A1/2021 dated 30.09.2022, confirm the order passed by the 3rd respondent in Letter No.3306/A5/2021 dated 15.11.2021 and quash the same.

For Petitioner : Mr.C.Elamurugan

For Respondent : Mr.B.Vijay
Addl. Govt. Pleader for R1 to R4
Mr.S.Rajendrakumar,
for R5, 6, 8, 10, 12, 16
Mr.M.John Caleb for R13 & R14
No Appearance for R7, 9, 11, 15 & 17

ORDER



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This writ petition has been filed challenging the order of the 2nd respondent in Na. Ka. No.5642/A1/2021 dated 30.09.2022 and to confirm the order passed by the 3rd respondent in Letter No.3306/A5/2021 dated 15.11.2021.

2. Petitioner is the power agent of one G.Vinodhaya and M.Vigneshwar. He has given a complaint before the District Registrar (Registration) Chennai North, alleging that the Power of Attorney originally executed by one Balaraman and his three sons, has been misused and despite the death of one of the principals, namely Balaraman on 27.04.1987, thereafter, the properties have been sold and three sale deeds have been executed on 10.05.1987 and 20.05.1987. Pursuant to the said sale deeds, there were 70 transactions took place to various persons. For cancelling those documents, a complaint has been given by the present writ petitioner.

3. The District Registrar held that all the transactions i.e. around 70 sale deeds are null and void. On appeal filed before the Deputy Inspector General



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(Registration), the appeal was allowed and the appellate authority relegated the parties to civil court. Challenging the same, this writ petition has been filed.

4. It is the main contention of the writ petitioner that since one of the principals has died, the power is also died. Therefore, subsequent sale deeds are not valid in the eye of law. Further, it is the contention of the petitioner that one of the terms in the Power of Attorney is that sale consideration has to be paid only to the first principal, which was also not followed. Hence, according to the petitioner, the entire transaction is a fraudulent one. Whereas, it is the contention of the respondents that the power is coupled with interest. Therefore, they disputed the allegations of the writ petitioner. The learned counsel relied on a judgment of the Hon'ble Apex Court in ***Bhatori v. Ram Piari*** reported in ***(1996) 11 SCC 655*** to buttress his submission. The said judgment is not applicable to the facts of the case and wherein the fraud has been established in a suit on evidence. It is also brought to the notice of the court that the petitioner has already filed a suit in O.S. No.106 of 2016 on the file of the learned Additional District Judge, Thiruvallur in respect of subject properties. However, the said suit also came to be dismissed as withdrawn.



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5. At the outset, this court is of the view that the District Registrar (Registration) entertaining such complaint and going to the merits of the case and annulling almost 70 documents registered in the year 1987 to 2016 is nothing but clear abuse of power. The District Registrar, in fact, annulled the documents even without hearing the subsequent purchasers. It is also to be noted that the power has been exercised on the basis of the circular issued under Section 68(2) of the Registration Act.

6. This court in ***G.Rajasulochana v The Inspector General of Registration and others in W.P. No.29706 of 2024 dated 16.04.2024***, has held that the power under Section 68(2) of the Registration Act, relates to superintendence and control over the officers. There cannot any circular against the substantive provisions of law, particularly, the transaction is governed under the Transfer of Property Act.

7. The Hon'ble Apex Court in ***Satya Pal Anand v. State of M.P.***, reported in ***(2016) 10 SCC 767*** has categorically held that by circular orders, the Registrars have no power to go into the transaction and held that District Registrars have no power to cancel the registered documents. After the



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judgment of the Apex Court, the Government has realised the fact that there is no provision under the Registration Act to cancel the document and introduced amendment to Section 22-A and 22-B of the Registration Act. While introducing the amendment in notes of clauses, it is the specific stand of the Government that there was no provision in the Registration Act to cancel the document. Therefore, the amendment was necessitated to control certain transactions in respect of certain properties as provided under Section 22-A and 22-B of the Act. In such view of the settled position, merely assuming the powers on the circular orders and entering into the disputed question of law and cancelling the documents without following any procedure and without any evidence, the act of the District Registrar cannot be sustained in the eye of law.

8. Admittedly, the Kartha one Balakrishnan along with his three sons, who are coparceners at the relevant point of time, executed a power of attorney on 31.12.1985. Even assuming the death of Balakrishnan as stated is correct on the particular date, after the death of Balakrishnan, the property is devolved on the other sons except share to the daughters. As far as the larger extent of the property, other co-parceners become owners. Admittedly, they also parties to the Power of Attorney. As long as that power is valid and existence, it cannot be



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said that subsequent sale made is without any authority, it is the stand of the respondents that the power is also coupled with interest, so many payments have been made. Whether the contention that the power is ordinary power of attorney or coupled with interest, it is a matter of evidence. Therefore, without any evidence in this regard, venturing into those disputes and cancelling 70 documents, which were registered from 1987 to 2016 is nothing but clear misuse of power by the District Registrar.

9. It is the contention of the learned counsel for the petitioner that sale consideration has not been received by the principal, namely the first principal, therefore the sale deeds are not valid in the eye of law, such contention has no force in the eye of law. Even assuming that the sale consideration is not paid that cannot be a ground to cancel the documents. The right of the seller is only to recover the amount as unpaid vendor's lien. Considering all the facts and this court has elaborately dealt with the power of the Registrar to cancel the document in ***G.Rajasulochana v The Inspector General of Registration and others in W.P. No.29706 of 2024 dated 16.04.2024***, I do not find any infirmity or error in the order of the second respondent and hence the writ petition is liable to be dismissed.



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10. Accordingly, the writ petition is dismissed. However, there is no order as to costs. Consequently, the connected writ miscellaneous petition is closed.

23.07.2024

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

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5.The Government Pleader

High Court, Madras



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N.SATHISH KUMAR, J.

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