



W.A.(MD) No.956 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**W.A.(MD) No.956 of 2021
and
C.M.P.(MD) No.4321 of 2021**

S.Dharmaraj

... Appellant

-VS-

- 1.The Inspector General of Registration
The Inspector General of Registration Office
No.100, Santhome High Road
Chennai
- 2.The District Registrar
Registrar Office, Karaikudi
Sivagangai District
- 3.The Joint Sub Registrar
Sub Registrar Office No.II
Karaikudi, Sivagangai District
- 4.Umayal
- 5.Abirami
- 6.Chittu @ Chittal



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7.VR.Somasundram

... Respondents

[R7 is impleaded *vide* Court
order dated 01.03.2021 in
W.M.P.(MD) No.11670 of 2020]

Writ Appeal filed under Clause 15 of Letters Patent to set aside the
order, dated 11.03.2021, passed in W.P.(MD) No.17726 of 2018, on the file of
this Court.

For Appellant : Mr.J.John

For Respondents : Mr.M.Sarangan
Additional Government Pleader for R1 to R3
No appearance for R4 to R6
Ms.R.Paranjothi
for M/s.KBS Law Office for R7

J U D G M E N T

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The unsuccessful writ petitioner is the appellant herein.

2. The appellant filed the above writ petition seeking to declare the
extinguishment deed dated 14.02.2017, registered as document No.354 of
2017, as null and void and consequently to direct the third respondent to
remove the entry made as document No.354 of 2017 in Book No.11, in
accordance with law.



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3. This Court, by order dated 11.03.2021, dismissed the writ petition. Hence, this writ appeal.

4. The respondents 4 to 7 are the legal representatives of the original land owner, who is said to have executed a power of attorney in favour of the appellant herein.

5. By a document dated 14.02.2017, registered as document No. 354 of 2017, the said power of attorney came to be cancelled. Aggrieved by the same, the appellant filed the writ petition.

6. Learned counsel for the appellant would contend that though the power of attorney is styled as a General Power of Attorney, it is a Special Power of Attorney and it was coupled with consideration and hence, as per Section 202 of the Indian Contract Act, 1872, the land owner cannot unilaterally cancelled the general power of attorney.

7. The learned Single Judge, by order dated 11.03.2021, dismissed the writ petition by holding as follows:



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“3.This Court is not inclined to entertain this Writ Petition for the simple reason that whether the power of attorney deed has been coupled with interest or not is entirely a matter to be decided by letting in evidence by the parties concerned before a Civil forum. In a dispute like this, the lis cannot be settled by this Court in exercise of its jurisdiction under Article 226 of Constitution of India. The competing claims of the parties cannot be a subject matter of adjudication before this Court, as the same would involve investigation of factual controversies. 4.In the above circumstances, the proper course for the petitioner is to approach the Civil Court and have his grievances redressed therein and not before this Court. In fact, the affidavit contains number of details, as to the amounts being transferred under the disputed documents, which statements have to be tested before the Civil Court on the basis of oral and material evidence and such statements cannot be tested on the basis of mere averments in the affidavit.”

8. After going through the reasonings given by the learned Single Judge, we find that the learned Single Judge has not expressed anything on the merits of the matter, however, stated that the issues as to whether the power of attorney deed said to have been executed in favour of the appellant



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herein is coupled with interest or not and whether there is any violation of the terms of the power of attorney deed are to be gone into only by the Civil Court and hence, we find it difficult to have a different view on this matter.

9. The very same factum has already been decided by this Court in the case of ***T.Sivaperumal vs. S.Viswanathan***, reported in **2014 (1) CTC 447**.

10. Learned counsel for the appellant also relied upon a decision in the case of ***Confederation of Real Estate Developers' Association of India vs. State of Tamil Nadu & Another***, reported in **2014 Writ L.R. 772** to state that writ petition is maintainable by the aggrieved person.

11. We have given our anxious consideration to the decision of the Honourable Division Bench of this Court. However, to our dismay, we find that it arises under the SARFAESI Act, wherein the Division Bench of this Court has considered the matter in favour of the aggrieved person and passed an order. It remains to be stated that the law on the point that was discussed in the said decision is not applicable to the facts and circumstances of the case.



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12. Accordingly, this writ appeal is dismissed. However, it is open to the appellant to agitate the matter before the appropriate forum seeking appropriate relief under the appropriate Act. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]

11.12.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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