



W.P.(MD)No.16205 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.16205 of 2022
and W.M.P.(MD)Nos.11715 and 11717 of 2022

M.Veeraprakash

... Petitioner

versus

1. The Deputy Inspector General of Registration,
Madurai Region,
Madurai District.

2. The District Registrar (Administration)
Registration Department,
Periyakulam,
Theni District.

3. P.Vijaya Rathina Gopal

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed by the 1st respondent in ந.க.எண்.8930/ஆ4/2021 dated 18.03.2022 by confirming the order passed by the 2nd respondent in ந.க.எண்.2081/இ2/2020 dated 08.10.2021 and quash the same and consequently direct the 1st and 2nd respondents to lift and ban imposed upon the petitioner's general power of attorney deed registered before the Joint - II Sub Registrar, Periyakulam, Theni District vide Doc.No.855 of 2020 on



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19.03.2020.

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For Petitioner : Mr.R.Anand
For R1 and R2 : Mr.C.Satheesh
Government Advocate
For R3 : Mr.T.S.Mohamed Mohideen

ORDER

This writ petition is filed challenging the order passed by the 1st respondent in ந.க.எண்.8930/ஆ4/2021, Dated 18.03.2022. confirming the order passed by the 2nd respondent in ந.க.எண்.2081/இ2/2020 dated 08.10.2021.

2. The case of petitioner is that a property in Survey No.179 measuring to an extent of 2 acres and 90 cents, Allinagaram Village, Theni Taluk, originally belonged to one Veeranan Thevar, who has two sons, by name, Kamathevar and Chinniveera Thevar. On 06.05.1931, a partition was effected, in which, A schedule property along with some other property was allotted to Kamathevar. The said Kamathevar was survived by his wife, two daughters, by name, Karuppayee, Dhamaiyanthi, Vishalatchi and a son, by name, Murugesan. After the demise of the said Kamathevar, his wife and two daughters have executed a general power of attorney deed in favour of Murugesan on 04.03.2009, based on which, he pledged the property in favour of the petitioner and after his



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demise, the above said three persons have executed the general power of attorney deed in favour of the petitioner on 19.03.2020. While so, the 3rd respondent gave a complaint before the 2nd respondent seeking to cancel the power of attorney deed executed in favour of the petitioner dated 19.03.2020. Despite the explanations given by the petitioner, the 2nd respondent, by impugned order dated 08.10.2021, directed not to register any further document based on the said document. Challenging the same, the petitioner has preferred an appeal before the first respondent. But, the first respondent, by impugned order dated 18.03.2022, dismissed the appeal preferred by the petitioner, by confirming the order passed by the second respondent dated 18.10.2021. Challenging the same, the petitioner is before this Court.

3. The case of the third respondent is that originally, the subject property belonged to one Chinnaveera Thevar, who sold the property to one Veerammal in the year 1967. Thereafter, in the year 1985, the said Veerammal sold the subject property to the petitioner, vide a sale deed dated 05.06.1985 and patta also stands in the name of the 3rd respondent. While so, the Revenue Divisional Officer, Periyakulam, by order dated 17.11.2008, granted joint patta in the names of the said Murugesan, his mother and three sisters, which has been



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challenged before the District Revenue Officer, Theni. The District Revenue Officer, Theni, by order dated 04.08.2011, cancelled the joint patta granted in favour of them. Thereafter, they have filed writ petitions in W.P.(MD)Nos. 9901 and 10021 of 2011 and the same were dismissed by giving liberty to them to approach the concerned Civil Court. Thereafter, the said Murugesan has filed a suit for permanent injunction against the 3rd respondent, however, the said suit came to be dismissed for default which has not been restored. According to the 3rd respondent, the power of attorney deed executed in favour of the petitioner is a fraudulent one. Based on the complaint, the 2nd respondent, after conducting an enquiry, passed an order dated 08.10.2021, directed not to register any further document based on the said document. Challenging the same, the petitioner has filed an appeal before the first respondent. The first respondent, by impugned order dated 18.03.2022, has dismissed the appeal filed by the petitioner, by confirming the order passed by the 2nd respondent.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate and the learned counsel appearing for the 3rd respondent.



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5. Both the petitioner as well as the 3rd respondent claim title over the subject property. The respondents 1 and 2, without any foundational facts and only based on the allegations made by the 3rd respondent, came to a conclusion that document sought to be cancelled is a fraudulent one. Whether the document is a fraudulent one or not, has to be decided only based on the evidence adduced in this regard. Without any evidence and documents, such findings cannot be recorded. Therefore, the impugned orders are liable to be set aside.

6. Accordingly, this writ petition is allowed and the order passed by the first respondent dated 18.03.2022 and the order passed by the second respondent dated 08.10.2021 are hereby quashed. However, it is made clear that the writ petitioner cannot make any alienation till his right is crystallized in the concerned Civil Court and he can establish his right before the concerned Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

NCC : Yes/No
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Internet: Yes/No.
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N.SATHISH KUMAR, J.

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