



W.P(MD)No.18210 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.18210 of 2023

and

W.M.P.(MD)Nos.15187 and 15189 of 2023

Rajan Malaiappan

... Petitioner

Vs.

1.The District Registrar (Administration),
Palayamkottai, Tirunelveli.

2.The Sub-Registrar,
Kadambur Sub Registrar Office,
Thoothukudi District.

3.Meera Kanagaraj

4.Lavanya

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.5961/A5/2021 dated 10.07.2023 and quash the same.

For Petitioner	: Mr.H.Arumugam
For R1 & R2	: Mr.M.Siddharthan Additional Government Pleader
For R4	: Mr.M.Prabhu



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4.The fourth respondent has filed a counter affidavit stating that the power of attorney executed in the year 1999 by the fourth respondent and her sister was cancelled on 12.03.2008. She contended that any registration after the cancellation of power of attorney is not valid and hence, she made a complaint before the District Registrar to cancel the said document. Since in view of the subsequent sale, lot of unnecessary confusions have been created in the family, she proceeded to agitate her legal right separately without knowing the further consequences. Now after a criminal complaint has been registered against her mother, the fourth respondent does not want to make any further trouble to any one and she is willing to accept the view of this Court.

5.Admittedly, the third and fourth respondents are dealing their undivided share in the subject property. The third respondent is entitled to a share in the subject property along with her two daughters. Therefore, even assuming that the fourth respondent had cancelled the power of attorney deed executed in favour of the third respondent, the sale in respect of share of the third respondent cannot be affected. Therefore, cancelling the sale deed in its entirety holding the same as void and fraudulent cannot be sustained in the eye of law.



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6.It is to be further noted that the Registering Authority has no power to cancel any document as the very Section 77(A) inserted under Registration Act to cancel the registered document, is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart, the issue of title and the fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court in view of the decisions made in ***Satya Pal Anand v. State of M.P.[2016 10 SCC 767]*** and ***G. Rajasulochana v Inspector General [W.P 29706 of 2024 dated 16.04.2024]***.

7.The order of the first respondent impugned in this writ petition clearly indicates that the first respondent had gone into the issue of title. In any event, the question as to whether the cancellation of power of attorney has been intimated to the third respondent or not has to be established before the competent civil Court in the manner known to law.

8.In view of the above, the order impugned in this writ petition in Na.Ka.No.5961/A5/2021 dated 10.07.2023 stands quashed and this writ petition is allowed. The parties shall work out their remedy before the



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competent Civil Court, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The District Registrar (Administration),
Palayamkottai, Tirunelveli.
- 2.The Sub-Registrar,
Kadambur Sub Registrar Office,
Thoothukudi District.



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N.SATHISH KUMAR, J

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