



W.P.(MD)No.23336 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.23336 of 2022

and

W.M.P.(MD)Nos.17400 and 17401 of 2022

G.Peter Robin

... Petitioner

versus

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

2. The Sub Registrar,
Office of the Sub Registrar,
Radhapuram,
Tirunelveli District.

3. S.Lingam

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned order made by the first respondent ந.க.எண்.4997/இ2/2021 dated 31.03.2022 and quash the same as illegal.

For Petitioner : Mr.V.Karthikraja
for M/s.Ajmal Associates
For R1 and R2 : Mr.P.Subbaraj,
Special Government Pleader



W.P.(MD)No.23336 of 2022

For R3 : Mr.S.Palanivelayutham

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ORDER

This writ petition is filed challenging the impugned proceedings dated 31.03.2022, passed by the first respondent, confirming that the Document Nos. 714/2004 and 4806/2004 are fraudulent documents, based on the petition/complaint filed by the 3rd respondent.

2. The facts of the case is that the subject properties originally belong to the 3rd respondent. On 19.02.2004, the 3rd respondent executed a power of attorney in favour of one Enamuthu Konar and the same was registered. On the strength of the power of attorney, the said Enamuthu Konar sold the subject properties to one Sharjan Shubh Realty (South) Private Limited, Wind Mill Company, vide Document No.714 of 2004 dated 05.03.2004, from whom, one V.U.Sajy has purchased the subject properties, vide Document No.2225 of 2014 dated 01.09.2014. Thereafter, on 15.02.2018, the petitioner has purchased the subject properties, vide Document Nos.566/2018 and 567/2018 and he is now in possession and enjoyment of the properties. The revenue records were also mutated in favour of the petitioner, vide Patta Nos.2320, 2523, 2444 and 2445. While so, the 3rd respondent has filed a petition before the first respondent that



W.P.(MD)No.23336 of 2022

he executed the power of attorney only with respect to 13 items of the properties, however, the said Enamuthu Konar has fraudulently inserted eight more items of the properties in the power of attorney and sold the said properties and therefore, he sought for cancellation of the documents. The first respondent, by the impugned proceedings dated 31.03.2022, passed an order confirming that the Document Nos.714/2004 and 4806/2004 are fraudulent documents and ordered not to allow further registration based on the said documents and also recommended for registering a case under Sections 82 and 83 of the Registration Act. Challenging the same, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the 1st and 2nd respondents and the learned counsel appearing for the 3rd respondent.

4. The impugned proceedings came to be passed based on the complaint given by the 3rd respondent to cancel the documents. The 3rd respondent has filed the complaint alleging that the power of attorney executed in favour of the said Enamuthu Konar is not relating to all properties and he executed the power



W.P.(MD)No.23336 of 2022

of attorney only with respect to 13 items of the properties, but, the said Enamuthu Konar has fraudulently inserted eight more items of the properties in the power of attorney and sold the properties.

5. It is seen that the power of attorney had been executed in the year 2004. After several transactions, the petitioner has finally purchased the properties. The 3rd respondent, after sixteen years, filed the complaint before the first respondent seeking cancellation of documents. The first respondent, based on the allegations made by the 3rd respondent, came to a conclusion that the documents are fraudulent documents.

6. Whether the said Enamuthu Konar has fraudulently inserted the more items of the properties in the power of attorney or not can be decided based on the evidence. Without any evidence and only based on the allegations, such findings cannot be recorded. Further, the Registering Authority has no power to cancel any registered documents, as per the law laid down by the Hon'ble Supreme Court in *Satya Pal Anand vs. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767 and also by this Court in *G.Rajasulochana Vs. Inspector General of Registration and others* (W.P.No.29706 of 2022).



W.P.(MD)No.23336 of 2022

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7. In view of the above, the impugned proceedings dated 31.03.2022 passed by the first respondent is liable to be quashed.

8. It is submitted that the 3rd respondent has filed a Civil Suit in O.S.No. 121 of 2022 as against the said Enamuthu Konar and seven others seeking declaration and recovery of possession and the same is pending before the Sub Court, Valliyoor.

9. Since the suit is pending before the Sub Court, Valliyoor, the parties shall workout their remedy, by establishing their rights in the pending suit.

10. Accordingly, this Writ Petition is allowed and the impugned proceedings dated 31.03.2022 passed by the first respondent is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

22.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No.
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W.P.(MD)No.23336 of 2022

N.SATHISH KUMAR, J.

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To

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W.P.(MD)No.23336 of 2022

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