



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 9681 of 2020

AND

WMP NO. 11808 OF 2020

1. S.Vidyasagar

Son of S.Doraswamy Naidu 81/41, 14th

Cross, 15th Main, JHBC Society,

Padmanabhanagar, Bangalore - 560 070

Petitioner(s)

Vs

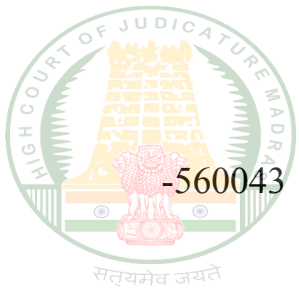
1. The Inspector General of
Registration

O/o.The Inspector General of
Registration, No.100, Santhome High
Road, R.A.Puram, Chennai 600 028.

2.The District Registrar,
Ooty, Nilgiris District.

3.Joint-i Sub Registrar
Ooty, Nilgiris District

4.Mrs. Kalpana
No 932, I Block, 3rd B Street, Hrbr
Layout, Kalyan Nagar, Bangalore



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Respondent(s)

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PRAYER

This writ petition filed under Article 226 of Constitution of India for the issue of writ of Certiorari to call for the records of the first respondent in respect of the impugned order dated 21.05.2020 bearing No.51359/U1/2019 in the appeal filed by the petitioner, quash the same as ultra vires, illegal and arbitrary.

For Petitioner(s): Mr.G.Rajkumar for
for Ms.R.Anitha
For Respondent(s): U.Baranidharan, SGP For R1 To
R3.
M/s. V. Srimathi, For R4 Dt
19/3/2021

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 21.05.2010 wherein the proceedings of the 2nd respondent dated 01.08.2013 was confirmed and a direction was issued to the 3rd respondent to invoke provisions of Section 82 and 83(1) of the Indian Registration Act against the petitioner and proceed further against him.

2. Heard Mr.G.Rajkumar, learned counsel for the petitioner and

Mr.U.Baranidharan, learned Special Government Pleader for respondents 1 to 3

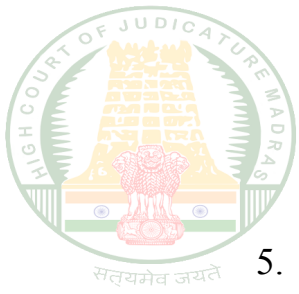


and Mrs.V.Srimathi, learned counsel for 4th respondent.

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3. The case of the petitioner is that the petitioner and the 4th respondent had a live in relationship. The petitioner purchased a property at Ootacamund and while registering the sale deed, one acre was registered in the name of the petitioner and the balance one acre was purchased in the name of 4th respondent in the year 2003. Apart from that, the petitioner also executed a gift deed dated 25.01.2010 in favour of the 4th respondent with respect to a property at Mysore.

4. The further case of the petitioner is that by agreement dated 27.01.2010, the 4th respondent entered into a sale agreement with respect to the property at Ootacamund and the property at Mysore with one Bharath, who is none other than the son of the petitioner. The said agreement is a consolidated agreement for both the properties executed by the 4th respondent. Pursuant to the agreement, advance amount was also paid to the 4th respondent on 27.01.2010. The 4th respondent also executed a general power of attorney dated 27.01.2010 in favour of the petitioner to execute the sale deed on her behalf with respect to both the properties. Accordingly, the petitioner executed the sale deed in his capacity as the Power of Attorney agent and the sale deed was registered before the Sub-Registrar, Ootacamund in document No.519 of 2012 and Sub Registrar, Mysore, in Document No.342/12-13. The sale consideration was also transferred to the bank account of the 4th respondent.



5. There was some misunderstanding between the petitioner and the 4th respondent and 4th respondent in order to wreck vengeance lodged a complaint before the Sub registrar, Ootacamund, alleging that the power of attorney dated 27.11.2010, based on which the sale deed was executed by the petitioner, is a forged document. Based on this complaint, the 2nd respondent issued a notice to the petitioner for enquiry under Circular No.67 dated 03.11.2011. The petitioner attended the enquiry and the 2nd respondent through proceedings dated 01.08.2013, held that the power of attorney document lacks credibility and therefore, directed the Sub Registrar to invoke the provisions of Section 82 and 83(1) of the Registration Act against the petitioner. The said order of the 2nd respondent was also confirmed in appeal by the 1st respondent.

6. The official respondents have filed a counter. They have taken a stand that with respect to the property at Ootacamund, there was a clear discrepancy in the schedule of property as described in the Power of Attorney and it did not tally with the original sale deed. Therefore, they came to a conclusion that there was a serious doubt as to whether this power of attorney was actually executed by the 4th respondent and that it lacks credibility. Accordingly, directions were issued to invoke the provisions of Section 82 and 83(1) of the Indian Registration Act. In view of the same, the respondents have sought for the dismissal of the writ petition.

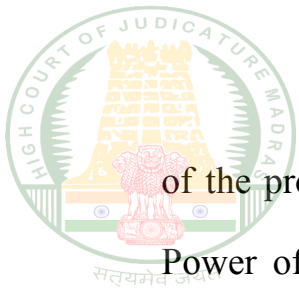


7. It is not in dispute that the petitioner and the 4th respondent had a live in relationship. When they were in good terms, the property in Ootacamund was purchased and one acre was purchased in the name of the petitioner and the balance one acre was purchased in the name of the 4th respondent. Apart from that, the petitioner had also gifted a property at Mysore in favour of the 4th respondent.

8. The specific case of the petitioner is that the 4th respondent entered into an agreement of sale with his son and also received the advance amount and along with the agreement of sale, the Power of Attorney was also executed in favour of the petitioner with respect to both the properties at Ootacamund and also at Mysore.

9. The dispute in the present case confines itself only to the property that was sold in favour of the petitioner's son through sale deed dated 12.04.2012 by conveying the property at Ootacamund. The 4th respondent has not raised any serious allegations with respect to the property at Mysore, which was sold in favour of the petitioner's son through sale deed dated 13.04.2012.

10. The main ground that has been put against the petitioner is that the boundaries in the sale deed dated 12.04.2012, did not tally with the boundaries as found in the Power of Attorney document. That apart, the original documents continued to be in the possession of the 4th respondent and she was in possession



of the property. In view of the same, the 2nd respondent has presumed that the Power of Attorney document could not have been executed in favour of the petitioner. It is thus clear that the finding has been rendered by the 2nd respondent merely on a presumption without anything more. The 2nd respondent failed to take note of the relationship between the petitioner and the 4th respondent and hence, there is nothing unnatural if the 4th respondent was retaining the original title document even after the sale deed was executed in favour of the petitioner's son. The 1st respondent has also mechanically confirmed the order passed by the 2nd respondent.

11. It is also brought to the notice of this Court that the 4th respondent has filed a suit in OS No.10 of 2015, which is pending on the file of the District and Sessions Court at Nilgiris and in the said suit, the petitioner and his son are the defendants apart from the District Registrar and Sub Registrar and the 4th respondent has sought for the relief of declaration of title and permanent injunction.

12. The finding rendered by the 2nd respondent, which was subsequently confirmed by the 1st respondent, is a finding based on mere presumption and surmise. Based on the same, a direction has been issued to the Sub Registrar to invoke the provisions of Section 82 and 83(1) of the Registration Act. The order suffers from illegality and this Court holds that there is an error of law apparent on the face of the order which requires the



interference of this Court.

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13. In the light of the above discussion, the impugned proceedings of the 1st respondent dated 12.05.2020, confirming the order passed by the 2nd respondent dated 01.08.2013, is hereby quashed. It is left open to both the parties to raise all the grounds before the Civil Court, where the suit is pending and the same will be considered on its own merits and in accordance with law.

14. In the result, this writ petition stands allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

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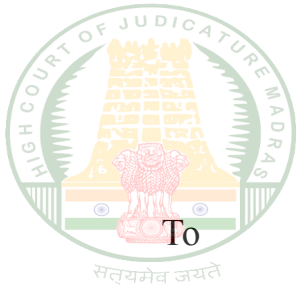
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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