



WP(MD). No.1257 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 04/02/2025

CORAM

The Hon`ble Mr.Justice V.LAKSHMINARAYANAN

**WP(MD). No.1257 of 2024 and
WMP(MD) Nos.1286 and 1287 of 2024**

1. D.Ganapathi,

2. Sharmila.G

... Petitioners

v.

1. The Sub-Registrar,
Kadaladi Sub-Registrar Office,
Ramanathapuram.

2. R. Srikabilan

3. D.Thangarajpandian

... Respondents

(R2 and R3 are impleaded vide order
dated 20.01.2025 in
WMP(MD) Nos.3200 & 8422/2024)

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the refusal check slips No.RFL/Kadaladi-Ramanathapuram/1/2024 and RFL/Kadaladi-Ramanathapuram/2/2024 dated 05.01.2024 issued by the respondent and to quash the same and



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consequently to direct the respondent to register the power cancellation deeds dated 05.01.2024 with document temporary Nos.TP/170056132/2024 and TP/170055294/2024 on 05.01.2024 within a time frame as may be fixed by this Court.

For Petitioners : Mrs.P.Jessi Jeeva Priya

For Respondents : Mr.P.T.Thiraviyam for R1

Mr.M.Rajesh for Mr.M.P.Senthil
for R3

Mr.N.Gurusamy for Mr.J.Barathan
for R2

ORDER

This writ petition challenges the order of refusal check slip issued in No.RFL/Kadaladi-Ramanathapuram/1/2024 and RFL/Kadaladi-Ramanathapuram/2/2024 dated 05.01.2024.

2. This is the 2nd round of litigation between the parties.

3. The petitioners are husband and wife. They are admittedly the owners of the properties situated in S.Nos.84/aA, 84/3B, 34/3B2 and 84/4B2B, 80/3, 80/4A, 80/4B, 80/4C, 80/4D1 and 80/1 of Periyakulam



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Village, Kadaladi, Ramanathapuram District. The first petitioner purchased the property from D.Thangarajpandian by way of three registered sale deeds dated 28.05.2010, 05.07.2012 and 19.02.2014. An another set of properties purchased by the 2nd petitioner on 28.05.2010 from the very same D.Thangarajpandian and one Palaniammal. The first petitioner submitted that he entered into an agreement with one T.S.M.Sampathkumar on 23.03.2023. Under the agreement, he had received a sum of Rs.40 lakhs. In the meantime, on account of a complaint that had been laid against the petitioners herein and their son Roshan Ganapathy by the Sarpada Police Station, Navi Mumbai, the 1st petitioner was arrested and remanded to custody. He was released on bail on 30.05.2023. Subsequently, the 2nd petitioner and their elder son were arrested on 28.10.2023 and released on bail on 05.11.2023.

4. The agreement holder T.S.M.Sampath kumar presented a suit for specific performance of an agreement of sale in O.S.No.72/2023 on the file of the Additional District Court at Paramakudi. The first and 2nd petitioners executed a deed of power of attorney in favour of Thangarajpandian on 05.07.2023. The said Thangarajpandian executed a



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sale deed on 25.08.2023 in favour of the 2nd respondent R.Sri Kabilan.

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Coming to know of the execution of the sale deed by the power of attorney of the petitioners in favour of R.Sri Kabilan, the agreement holder Sampath Kumar gave a petition to the Sub Registrar not to record any sale deeds. This came to be ordered by the Sub Registrar, Kadaladi in his proceedings dated 25.08.2023.

5. Aggrieved by the said order, the petitioners along with the purchaser Sri Kabilan filed WP(MD) No.24477/2023. After hearing the petitioners and the agreement holder Sampathkumar, the writ petition came to be allowed on 19.12.2023. The learned Judge gave liberty to the agreement holder Sampath Kumar to move an application for injunction in the pending suit. It transpires that the suit in O.S.No.72/2023 has been referred to the Lok Adalat and a settlement award was passed on 09.03.2024.

6. In the meantime, on 05.01.2024, the petitioners presented a document for cancellation of the power of attorney. The first respondent returned the document by stating the following:



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“இந்த ஆவணமும் இதன் மூல ஆவணங்களும்
சேர்த்து மாண்புமிகு சென்னை உயர்நீதிமன்ற மதுரை
கிளை வழக்கு எண்.W.P.(MD) No.24479 of 2023 and
W.M.P.(MD) No.20667 of 2023 வழக்கில் உள்ளதால்
நீதிமன்ற ஆணை பெற்று தாக்கல் செய்ய
தெரிவிக்கப்படுகிறது.□

Aggrieved by the same, the present writ petition.

7. This Court entertained the writ petition and issued notice.

8. I heard Mrs.P.Jessi Jeeva Priya, learned counsel for the writ petitioners, Mr.P.T.Thiraviyam, learned Government Advocate for the respondent No.1, Mr.N.Gurusamy for Mr.J.Barathan for the 2nd respondent and Mr.P.Rajesh for Mr.M.P.Senthil for the 3rd respondent.

9. Mrs.P.Jessi Jeeva Priya urged that a power of attorney executed by the petitioners is always subject to cancellation. She states that it is not a power of attorney coupled with interest, as the third respondent, has no interest in the property. She points out that the document has been



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presented for registration on 25.08.2023, but had not been registered by the authorities till orders were passed by this Court in WP(MD) Nos. 24477 and 24479 of 2023. She also points out that the reasoning that has been given by the Sub Registrar is erroneous and therefore, it requires to be interfered with.

10. The learned counsel for the petitioners also pleads that under Section 47 of the Indian Registration Act, a registered document shall operate from the date on which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration.

11. Per contra, the learned Government Advocate points out that the sale deed had been executed by the third respondent in favour of the 2nd respondent on 25.08.2023 and presented for registration on the same day. Since the Registrar refused to register the document, the petitioners and the 2nd respondent herein had filed WP(MD) Nos.24477 and 24479 of 2023 and had obtained orders. The Sub Registrar had registered the document in compliance with the orders of this Court. He states that



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there is no question of cancellation of power once the sale has been registered. This view is concurred with by both the counsels, who are representing the respondents 2 and 3.

12. I have carefully considered the rival submissions of all the counsels and perused the materials available on record.

13. The power of attorney falls with the realm of a contract. It is capable of revocation. Under Section 202 of the Indian Contract Act ('the Act' in short), as rightly contended by Mrs.P.Jessi Jeeva Priya unless and until an agent has an interest in the property, he cannot claim that the document is incapable for cancellation. However, there is a provision under Section 204 of the Act. Under 204, if an agent has already exercised his authority given under the power, then, the power of attorney deed cannot be cancelled.

14. The reason for such a provision is not too far to see. This is because the rights of a third party would have intervened on account of the activities carried on by the agent on behalf of the Principal. This, in



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my view, stands attracted to the facts of the present case.

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15. It is not in dispute that the power of attorney had been executed on 05.07.2023. The agent, namely, the third respondent herein, in exercise of that power, had executed a sale deed in favour of the 2nd respondent on 25.08.2023. Not stopping with the execution, the sale deed was also presented for registration on 25.08.2023. Validity of a document in terms of Section 47 of the Indian Registration Act starts not from the date of registration but from the date of execution. Fortunately for the respondents 2 and 3 in this case, the execution as well as the registration was on the same day, namely, 25.08.2023. Therefore, on that date, the power that has been granted to the third respondent by the petitioners stood exercised and exhausted. On that date, the right of the third party namely, the purchaser/2nd respondent came into being. Once title has been transferred on that day by cancellation of power of attorney, such title cannot be devastated. If this plea of Mrs.P.Jessi Jeeva Priya is accepted, it will result in absolute confusion.

16. At this stage, the learned counsel for the petitioners pleads that



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the respondents 2 and 3 have not paid the price to the owner, namely, the petitioners. If that be the situation, it is always open to the petitioners to approach the jurisdictional civil Court and sue for either cancellation of the document or claiming unpaid vendors charge, as they may be advised. Suffice it to say that it is not a case requires interference.

17. In the light of the above discussions, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

04.02.2025

RR

TO

1. The Sub-Registrar,
Kadaladi Sub-Registrar Office,
Ramanathapuram.



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V.LAKSHMINARAYANAN, J

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**ORDER
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