

W.P.(MD).No.20177 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.20177 of 2021

and

W.M.P.(MD).No.16881 of 2021

1.Rajeswari Ammal

2.Senthil Kumar

3.Sivakumar

Represented by Power Agent,
Elavazhagan.

.. Petitioners

Vs.

1.The Deputy Inspector General
of Registration,
Thanjavur Registration Zone,
Thanjavur.

2.The District Registrar (Admn) and
Assistant Inspector General of Registration,
Thanjavur.

3.The District Registrar(Admn),
Thanjavur.

4.Jagadeesh Nangpal

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records of the 2nd respondent in K.Dis.No.442/B1/2020 dated 17.06.2020 as confirmed by the order of 1st respondent in K.Dis.771/B1/2020 dated 05.10.2021 and quash the same as illegal, arbitrary and unenforceable.



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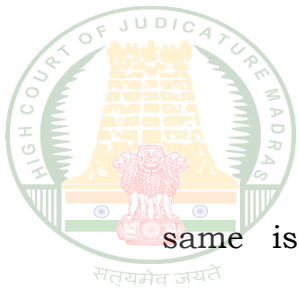
For Petitioners : Mr.M.R.S.Prabhu
For R-1 to R-3 : Mr.N.Ramesh Arumugam
Government Advocate
For R-4 : Mr.P.Vadivel

ORDER

This Writ Petition challenges the order passed by the second respondent in K.Dis.No.442/B1/2020 dated 17.06.2020 as confirmed by the order of first respondent in K.Dis.771/B1/2020 dated 05.10.2021.

2. According to the writ petitioners, the property, which is the subject matter of the Writ Petition, belongs to them. Both sides agree that originally, the property belonged to one Rajagopala Moopanar. Pursuant to a settlement deed executed on 04.04.1960, the property was allotted to Ponnusamy Moopanar. Post the death of Ponnusamy Moopanar, his son Chandrasekaran inherited the same. On the death of Chandrasekaran, the petitioners got the property. The petitioners executed a deed of power of attorney in favour of one Elavazhagan on 21.02.2018. Subsequently, on 07.03.2018, a sale agreement was entered into by the writ petitioners in favour of one R.Thiagarajan.

3. The fourth respondent filed petitions before the District Registrar (Administration) on 14.06.2018, 19.09.2018 and 23.10.2018 for cancellation of the power of attorney and the agreement of sale on the ground that the

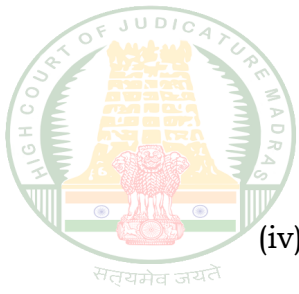


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same is fraudulent. These petitions, along with a petition given by Mr.Elavazhagan, were heard by the third respondent. He dismissed the request filed by the fourth respondent in and by way of an order in μ . μ . μ . μ . 2441/ஆ1/2018 dated 10.05.2019. The petitioners plead that without challenging the said order, the fourth respondent yet again gave a representation on 19.02.2020, which came to be allowed by the second respondent on 17.06.2020. Aggrieved by the same, the power agent of the petitioners, Elavazhagan along with others preferred an appeal before the first respondent, who confirmed the order in μ . μ . μ . μ . 771/ஆ1/2020 dated 05.10.2021. Challenging both these orders, the present Writ Petition has been filed.

4. The case of the fourth respondent is that one Rajagopala Moopanar was the owner of the property. He had executed a settlement deed on 04.04.1960 in favour of four individuals. One such individual is Kamalathammal. The said Kamalathammal executed a sale deed on 10.04.1961 in favour of one Paravai Nachiyar @ Pappa. On 06.05.1964, the said Paravai Nachiyar executed a sale deed in favour of one Radhakrishna Dass Nangpal. The said Radhakrishna Dass Nangpal executed a "WILL" on 10.03.1988, bequeathing the property in favour of his four sons,

- (i) Ashok Kumar,
- (ii) Ramesh,
- (iii) Jagadeesh and



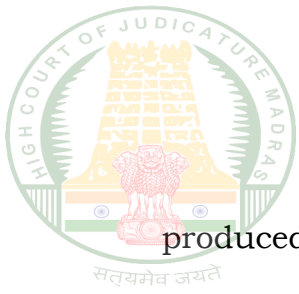
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(iv) Rajkumar.

Radhakrishna Dass Nangpal died on 05.04.1988. The fourth respondent pleads that on his death, his sons became the owner of the property and have been in possession and enjoyment of the same.

5. According to the fourth respondent, the petitioners do not have any right, title or interest over the property. He pleads that in order to create a confusion, the petitioners together with the aforesaid R.Thiagarajan have created a document with respect to the property for which, Radhakrishna Dass Nangpal is the owner. Therefore, invoking Section 68(2) of the Registration Act, he took out an application before the second respondent. The second respondent had correctly analysed the tracing of title and had come to the conclusion that the writ petitioners are not owners of the property and consequently, passed the order dated 17.06.2020. It is urged that the order of the second respondent had been appealed against and that too came to be dismissed. Hence, the fourth respondent pleads for confirmation of the order.

6. Appearing on behalf of the respondents 1 to 3, Mr.N.Ramesh Arumugam, learned Government Advocate urges that the District Registrar had received a representation from the fourth respondent. After receipt of the documents, which are available with the fourth respondent, the power agent of the petitioners were summoned to produce the documents. Both sides



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produced their records and the third respondent, as the Enquiry Authority, had scrutinised the documents produced by both parties. He points out that the third respondent had passed an order only with respect to Document Nos.1698/2018 and 189/2018 and had not passed any orders with respect to Document Nos.1140/2018 and 1427/2018. He adds that the second respondent came to a conclusion that Ponnusamy Moopanar, the father-in-law of the first petitioner and the grandfather of the petitioners 2 and 3, had obtained only the 'D' schedule mentioned property from Rajagopala Moopanar. The property that he received in R.S.No.310 to an extent of 1 acre had been sold to one Subramania Pillai in 1963 itself. Therefore, after having alienated the property in favour of Subramania Pillai, neither Ponnusamy Moopanar nor Chandrasekar and consequently, the writ petitioners do not have any right over the said property.

7. As a consequence of this discussion, the second respondent came to the conclusion that Document No.1140/2018 and the sale agreement in Document No.1427/2018 are fraudulent documents. He pleads that the second and third respondents merely applied the Circulars of the Inspector General of Registration issued from 2012 onwards and therefore, they have the jurisdiction to deal with the issue presented before them.

8. In response, Mr.M.R.S Prabhu, relying upon the judgment of the Division Bench of this Court in ***M.Kathirvel and others Vs. Inspector***



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General of Registration and others, 2024 (4) CTC 769, urges that as

Section 77-A of the Registration Act has been declared as unconstitutional, the impugned orders of the respondents 1 and 2 herein would have to go. He states, even assuming that Section 77-A is applicable to the facts of the case, the same cannot be given retrospective effect to cancel the documents, which have come into being much before Section 77-A was inserted into the Registration Act. For this proposition, he relies upon the judgment of another Division Bench of this Court in **Netvantage Technologies Private Limited Vs. Inspector General of Registration and Stamps and others, 2024 (1) CWC 630**.

9. I heard Mr.M.R.S Prabhu for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents 1 to 3 and Mr.P.Vadivel for the fourth respondent.

10. I have carefully considered the submissions of both sides. I have gone through the records.

11. The narration of the facts shows that there is a serious dispute of title. The petitioners claim that the property was allotted to their ancestor, Mr.Ponnusamy Moopanar. The fourth respondent pleads that the property had been allotted to the wife of Rajagopala Moopanar, namely, Kamalathammal. A perusal of the typed set of papers shows that on the very

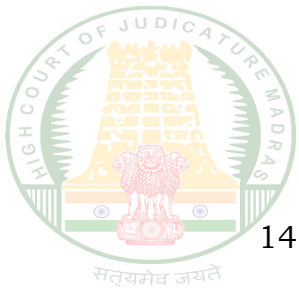


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same pleas, the parties are already before the learned Additional District Munsif at Thanjavur in O.S.No.174 of 2016. The said suit is one for declaration of title for injunction filed at the instance of the fourth respondent and his brothers.

12. Though the fourth respondent and his brothers were originally successful in obtaining an interim order in the said proceedings, on an appeal filed before the learned Principal Subordinate Judge at Thanjavur in C.M.A.No.13 of 2018, the interim order was vacated. The appeal was allowed and the parties were directed to maintain status quo in respect of the suit schedule mentioned property till the disposal of the suit.

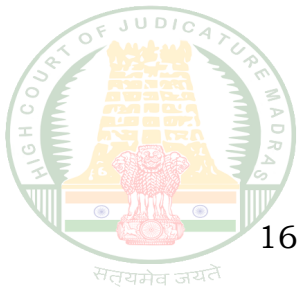
13. Further, when the parties took their disputes before the Tahsildar, he had passed an order favouring the writ petitioners on 29.12.2017. This order was challenged before this Court in W.P.(MD).No.25489 of 2019. A learned Single Judge, by an order dated 10.03.2020, held that as civil suits are pending, the revenue authorities cannot adjudicate upon the same and left it open to the successful party before the Civil Court to approach the revenue authorities for mutation of the records on the basis of the result of the suit. The learned Judge had further pointed out that as the suit in O.S.No.174 of 2016 is pending, any alienations made by either parties would be hit by Section 52 of the Transfer of Property Act, 1882.



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14. Turning to the impugned orders, the power that is said to have been exercised is under Section 68(2) of the Registration Act. This provision was interpreted by the Supreme Court in **Satyapal Anand Vs. State of Madhya Pradesh and others, (2016) 10 SCC 767**. The Court declared that once a document is registered, it is not open to any authority created under the Registration Act to cancel the registration. It was further pointed out that the provision for an appeal under Section 72 and the statutory suit under Section 77 relate to Section 71 (Part XII of the Registration Act). By virtue of Section 68(2) of the Registration Act, the respondents 1 and 2 exercise powers of superintendence or supervisory powers over their subordinates. It is not a quasi-judicial power. It is only an administrative power. If that be the position of law, as declared by the Supreme Court, I am not in a position to understand as to how the respondents 1 and 2 claimed to exercise a power not vested with them.

15. The first and second respondents ought to have returned the petitions filed by the fourth respondent stating that they do not have the jurisdiction to deal with the same. For reasons only known to them, the respondents 1 and 2 have proceeded to discuss various issues, which require oral and documentary evidence and appreciation of law, which can justly and rightfully be done only by a Civil Court.



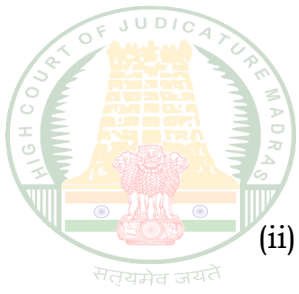
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16. What is even more surprising is that the third respondent had passed an order on 10.05.2019, holding that the petition filed by the fourth respondent is untenable. The fourth respondent, instead of filing an appeal against the said order, seems to have approached the very same authority afresh with a fresh representation, perhaps, on account of the fact the previous incumbent had left his office and a new incumbent had joined. The new incumbent, instead of following his predecessor's order dated 10.05.2019, had arrogated with himself the power of the Civil Court and had passed the order declaring that the agreement of sale and the deed of power of attorney as fraudulent. There is absolutely no explanation as to how the very same authority had taken a diametrically opposite stand in the subsequent order. The power of review is not inherent in an authority, but has to be specifically conferred by the statute. This is another ground on which the impugned order reeks of arbitrariness.

17. Since the respondents 1 and 2 do not possess the jurisdiction, I have no other option than to agree with Mr.M.R.S.Prabhu and quash the proceedings impugned in the Writ Petition.

18. In the light of the above discussion, I pass the following order:

(i) The impugned order passed by the second respondent in K.Dis.No. 442/B1/2020 dated 17.06.2020 and the impugned order passed by the first respondent in K.Dis.771/B1/2020 dated 05.10.2021 are quashed.



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(ii) The alienations that might have been made by the petitioners or the fourth respondent, if any, will be subject to the result of the suit in O.S.No.174/2016 on the file of the District Munsif Court at Thanjavur.

(iii) The Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

13.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

- 1.The Deputy Inspector General
of Registration,
Thanjavur Registration Zone,
Thanjavur.
- 2.The District Registrar (Admn) and
Assistant Inspector General of Registration,
Thanjavur.
- 3.The District Registrar(Admn),
Thanjavur.



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V.LAKSHMINARAYANAN,J.

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