HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 4286 OF 2024 (GM-ST/RN)

BETWEEN:

SRI. PUTTARUDRAIAH
S/O LATE SHIVARUDRAPPA,
AGED ABOUT 65 YEARS,
R/AT TITTAHALLI VILLAGE,
K.G.HALLI POST, KENGERI HOBLI,
BANGALORE SOUTH TALUK,
BENGALURU-560 074.

…PETITIONER

(BY SRI. MITHUN G A., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY THE
UNDER SECRETARY TO
REVENUE DEPARTMENT,
GOVERNMENT OF KARNATAKA,
M S BUILDING,
BANGALORE 560 001.

2. THE INSPECTOR GENERAL
OF REGISTRATION
KANDAYA BHAVAN,
K G ROAD, BENGALURU 560 009.

3. THE SENIOR SUB REGISTRAR
BYATARAYANAPURA,
1ST FLOOR, 3RD CROSS,
B.B.M.P WARD NO 8,
NEAR BALAMURI GANAPATHI TEMPLE,
KODIGEHALLI MAIN ROAD,

Digitally signed by
NAGARAJA B M
Location: HIGH
COURT OF
KARNATAKA

TATANAGAR,
BANGALORE 560 092.

4. DISTRICT REGISTRAR OF REGISTRATION
JAYANAGAR DISTRICT,
NO 4, OLD NO 622/623,
3RD FLOOR, 10TH A MAIN ROAD,
4TH BLOCK, JAYANAGAR,
BANGALORE 560 011.

5. SRI ANANTHARAJU V
S/O LATE VEERARAGHAVA RAJU,
AGED ABOUT 78 YEARS.

6. SRI S.A.L. VINAY
S/O V ANANTHARAJU
AGED ABOUT 47 YEARS,

RESPONDENTS 5 AND 6 ARE
R/AT NO 240/2A (OLD), 180(NEW)
IN FRONT OF ANJANEYASWAMY TEMPLE,
13TH CROSS, I PHASE, J P NAGAR,
BENGALURU 560 078.

7. THE ASST. COMMISSIONER
BANGALORE SOUTH SUB DIVISION,
KANDAYA BHAVAN,
K G ROAD, BENGALURU 560 009.

8. THE TAHASILDAR
BANGALORE SOUTH,
KANDAYA BHAVAN,
K G ROAD, BENGALURU 560 009.

…RESPONDENTS

(BY SMT. NAVYA SHEKAR, AGA FOR R1 TO R4, R7 & R8;
SRI. W M SUNDARAMURTHY, ADVOCATE FOR R5 & R6)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ORDER DECLARING THE SALE DEED REGISTERED AS DOCUMENT NO.BYP-1-07987-

2023-24 DATED 12/09/2023 VIDE ANNEXURE-A AS NULL AND VOID DOCUMENT AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed seeking a declaration that the registered Sale Deed registered as document No.BYP-1-07987-2023-24 dated 12.09.2023, produced as Annexure-A, is null and void and for a consequential direction to the second respondent–Sub-Registrar to delete the entry bearing Document No.BYP-1-07987-2023-24 dated 12.09.2023 from the records of the Sub-Registrar, Byatarayanapura, Bengaluru. The petitioner further seeks a direction to the second respondent to record/denote the said document as null and void in the register maintained in his office. A further relief is also sought against respondent No.1 to initiate departmental enquiry against respondent Nos.3 and 4 for their alleged collusion with respondent Nos.5 and 6 in registering the

impugned sale deed, which according to the petitioner is *ex-facie* illegal and void.

2. The petitioner in this writ petition contends that respondent Nos.5 and 6, in active collusion and with the aid and assistance of respondent Nos.3 and 4, who are the Senior Sub-Registrar and the District Registrar respectively, have orchestrated a fraudulent transaction in gross violation of the provisions of the Registration Act, 1908 (for short "Act 1908"). It is specifically alleged that an unregistered General Power of Attorney was improperly entertained and erroneously adjudicated, which was subsequently misused by respondent Nos.5 and 6 to effectuate the impugned transaction. The petitioner further assert that, on the strength of the said General Power of Attorney and a certificate purportedly obtained under Section 41 of the Karnataka Stamp Act, 1957 (for short " Act, 1957"), a sale deed came to be registered in respect of disputed agricultural land, which admittedly falls within the jurisdiction of Chinnakurchi Village, before the

Sub-Registrar at Byatarayanapura, who lacked territorial jurisdiction.

3. It is the specific grievance of the petitioner that the impugned registration is vitiated by fraud, having been carried out in contravention of Sections 28, 32, 33 and 34 of the Act, 1908 read with Rule 171 of the Karnataka Registration Rules, 1965 (for short "Rules, 1965"). The petitioner further contend that respondent No.3, despite having no jurisdiction over the subject property situated in Kengeri Hobli, has facilitated the registration by adopting a device, whereby an additional property described as Item No.2 (Site No.10) was artificially included in the sale deed solely to confer jurisdiction upon his office. It is thus alleged that the registration at Byatarayanapura, Ward No.7, is a colourable exercise of power, particularly when the agricultural land in question falls within the jurisdiction of the Sub-Registrar, Rajarajeshwari Nagar and the District Registrar, Jayanagar. On these grounds, the petitioner asserts that the registration of the sale deed by

respondent No.3 is wholly without jurisdiction and is liable to be declared as null and void.

4. Learned counsel appearing for the petitioner, while reiterating the grounds urged in the pleadings, fairly submits that insofar as the validity of the sale deed is concerned, the same would ordinarily fall within the domain of a competent Civil Court. However, he would emphatically contend that the present petition does not seek adjudication on the validity of the sale deed *per se*, but are confined to questioning the very act of registration undertaken by respondent No.3, which, according to him, is *ex-facie* without jurisdiction. Elaborating on this contention, learned counsel submits that though the subject property is an agricultural land falling within the jurisdiction of the Sub-Registrar, Kengeri, the impugned sale deed has been registered before the Sub-Registrar, Byatarayanapura, by artificially including a fictitious property solely to bring the transaction within the territorial jurisdiction of respondent No.3.

5. Placing reliance on the judgment of the Hon'ble Apex Court in ***Asset Reconstruction Company (India) Limited vs. S.P. Velayutham and others (2022) 8 SCC 210*** and the judgment of the Division Bench of the Madras High Court in ***SP Vairavan v. The Sub-registrar Joint-I (W.A(MD) 462/2025),*** learned counsel would contend that where the very act of registration is vitiated by lack of jurisdiction and is a product of fraud, the writ jurisdiction of this Court is maintainable. He would therefore submit that the petitioner is entitled to invoke the extraordinary jurisdiction of this Court to assail the illegal registration and seek appropriate directions, including declaring the registration of the sale deed as bad in law. On these grounds, learned counsel seeks to persuade this Court to grant the reliefs as prayed for in the captioned petition.

6. *Per contra*, respondent Nos.5 and 6 have entered appearance and filed a detailed statement of objections, stoutly denying the averments, allegations, and

contentions urged in the writ petition. The said respondents, while disputing the allegations of fraud and collusion, have, however, not disputed the petitioner' title over the subject agricultural land bearing Sy. No.67 measuring 1 acre, situated at Chinnakurchi Village, Kengeri Hobli, Bengaluru South Taluk.

7. Elaborating their defence, respondent Nos.5 and 6 contend that the petitioner had, in fact, executed an Agreement of Sale dated 02.08.2007 in their favour, coupled with a General Power of Attorney the same date, whereunder vacant physical possession of the subject property was also delivered to them. It is further asserted that, contemporaneously, the petitioner handed over all original title deeds along with relevant revenue records pertaining to the subject property, thereby evidencing the transaction and the intention to convey the property.

8. Respondent No.5 would further contend that, in order to regularize and give legal efficacy to the said

General Power of Attorney, he approached the office of the Deputy Commissioner of Stamps and District Registrar, Jayanagar, and tendered the requisite deficit stamp duty payable on the said instrument. It is stated that upon adjudication and determination of the deficit stamp duty by the competent authority, the same was duly paid, and a certificate under Section 41 of the Act, 1957 came to be issued on 20.07.2023.

9. In support of their contentions, respondent Nos.5 and 6 have produced along with their statement of objections copies of the Agreement of Sale dated 02.08.2007, the General Power of Attorney dated 02.08.2007 and the certificate dated 20.07.2023 issued by the Deputy Commissioner of Stamps and District Registrar, Jayanagar, to substantiate their claim that the transaction is lawful and duly validated in accordance with the provisions of the Act, 1957.

10. The respondents further contend that the transaction entered into between the petitioner and respondent Nos.5 and 6 is valid, subsisting and legally enforceable and that the petitioner, having consciously executed the Agreement of Sale coupled with the General Power of Attorney, cannot now be permitted to resile from the same. It is specifically urged that the petitioner has neither disputed the execution of the Agreement of Sale and the General Power of Attorney dated 02.08.2007 nor denied the receipt of substantial sale consideration thereunder. According to the respondents, the present writ petition is a clear attempt to circumvent the requirement of instituting a comprehensive civil suit and to avoid payment of requisite court fee, and therefore, the petitioner has deliberately invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

11. In further substantiation of their defence, respondent Nos.5 and 6 have placed on record a detailed

memo indicating that the petitioner has received a total consideration of ₹20,00,000/- pursuant to the execution of the Agreement of Sale and the General Power of Attorney in favour of respondent Nos.5 and 6. It is thus contended that the petitioner, having accepted the entire sale consideration and parted with possession, is estopped from questioning the transaction in the present proceedings.

12. Respondent Nos.5 and 6 would further contend that the reliance placed by the petitioner on the judgments cited is wholly misplaced and inapplicable to the facts of the present case. According to them, the issues raised by the petitioner, including allegations of fraud, lack of jurisdiction, and invalidity of the sale transaction, would necessarily require a detailed adjudication of disputed questions of fact, including the validity and enforceability of the Agreement of Sale, the General Power of Attorney, and the consequential sale deed executed pursuant thereto. Such an exercise, it is contended, squarely falls

within the domain of a competent civil court and cannot be undertaken in writ proceedings. On these grounds, the respondents assert that the writ petition is not maintainable and is liable to be dismissed *in limine*.

13. Before adverting to the law laid down by the Hon'ble Apex Court in ***Asset Reconstruction Company (India) Limited vs. S.P. Velayutham (supra)*** and the Division Bench of the Madras High Court in ***SP Vairavan v. The Sub-registrar Joint-I*** **(supra)**, this Court deems it necessary to cull out certain crucial and foundational facts emerging from the record in the present petition. The nature of the relief sought by the petitioner assumes significance and therefore warrants careful consideration. The prayer in the captioned petition, in unequivocal terms, seeks a declaration to declare the registered sale deed bearing Document No.BYP-1-07987-2023-24 dated 12.09.2023 as null and void, apart from consequential reliefs directed against the registering authority. The prayer is extracted, which reads as under;

"a) Issue a writ of Certiorari or any other appropriate writ or order declaring the Sale Deed Registered as document No.BYP-1-07987-2023-24 dated 12.09.2023 vide Annexure-A, as null and void document in the interest of justice and equity;

b) Consequently, direct the Respondent No.2 to delete the entry made as document No.BYP-1-07987-2023-24 dated 12.09.2023 vide Annexure-A in office of the Sub-Registrar, Bytarayanapura, Bengaluru.

c) Consequently, direct the concerned Sub-Registrar to denote on the document No.BYP-1-07987-2023-24 dated 12.09.2023 vide Annexure-A as null and void; and

d) Subsequently direct the respondent No.1 to initiate departmental enquiry against respondent Nos.3 and 4 for having colluded with respondent Nos.5 and 6 in registering null and void and invalid document No.BYP-1-07987-2023-24 dated 12.09.2023 vide Annexure-A, pursuant to the adjudication done by respondent No.4;

e) Such other order/direction as this Hon'ble Court may deem fit to grant in the circumstances of the case, in the interest of justice and equity."

14. However, a perusal of the statement of objections and the documents placed on record by

respondent Nos.5 and 6 would reveal that the impugned sale deed is not a standalone transaction, but is preceded by foundational documents, namely, an Agreement of Sale dated 02.08.2007 coupled with a General Power of Attorney executed on the date, both executed by the petitioner in favour of respondent Nos.5 and 6. The material on record further indicates that the said General Power of Attorney, though initially insufficiently stamped, was subsequently subjected to adjudication before the competent authority, and pursuant to an order dated 17.07.2023, the requisite deficit stamp duty was paid, culminating in issuance of a certificate under Section 41 of the Act, 1957. It is thereafter that the sale deed dated 12.09.2023 came to be executed and registered, which is now called in question in the present writ petition.

15. In this factual backdrop, the crucial issue that arises for consideration is whether the petitioner, without laying any challenge to the underlying Agreement of Sale dated 02.08.2007 and the General Power of Attorney of

the same date both of which *prima-facie* indicate that the agency created thereunder is coupled with interest can maintain a writ petition seeking to declare the consequential sale deed dated 12.09.2023 as null and void. It is also not in dispute that the petitioner, who is the admitted owner of the subject property, has not placed any material to demonstrate that the said General Power of Attorney has been revoked in a manner known to law. The relevant portions of the General Power of Attorney dated 02.08.2007 and Sale Agreement dated 02.08.2007 are extracted, which read as under;

"ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಪತ್ರ / ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿ

ಸನ್ ಎರಡುಸಾವಿರದ ಏಳನೇ ಇಸವಿ ಆಗಸ್ಟ್ ಮಾಹೆ ತಾರೀಖು ಎರಡು (02.08.2007) ರಲ್ಲು

ಬೆಂಗಳೂರು–78, ಜೆ.ಪಿ. ನಗರ, 1ನೇ ಫೇಸ್/ವಿಭಾಗ, ಸಾರಕ್ಕಿ, 13ನೇ ಅಡ್ಡರಸ್ತೆ, ಆಂಜನೇಯ ದೇವಸ್ಥಾನದ ಮುಂಭಾಗದಲ್ಲಿರುವ ಮಾಜಿ 240/2A ಹಾಲಿ 180ನೇ ಸಂಖ್ಯೆಯ ಮನೆಯಲ್ಲಿ ವಾಸವಾಗಿರುವ ದಿವಂಗತ. ವೀರರಾಘವರಾಜು ರವರ ಪುತ್ರ ಸುಮಾರು 61 ವರ್ಷದ ಶ್ರೀ. ಅನಂತರಾಜು

ರವರಿಗೆ

ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಕೆಂಗೇರಿ ಹೋಬಳಿ,

ಚಿನ್ನಕುರ್ಚಿ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶಿವರುದ್ರಯ್ಯ
ರವರ ಪುತ್ರ ಸುಮಾರು 55 ವರ್ಷ ವಯಸ್ಸುಳ್ಳ
ಶ್ರೀ. ಪುಟ್ಟರುದ್ರಯ್ಯ ಆದನಾನು

ಬರೆಯಿಸಿಕೊಟ್ಟ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಪತ್ರ / ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿ
ಪತ್ರದ ಕ್ರಮವೇನೆಂದರೆ ಅದಾಗಿ"

XXXX

<u>ಅನುಸೂಚಿ:–</u>

ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಕೆಂಗೇರಿ ಹೋಬಳಿ, ಚಿನ್ನ ಕುರ್ಚಿ ಗ್ರಾಮದ ಸರ್ವೆ 67ನೇ ಸಂಖ್ಯೆಯ ಒಂದು ಎಕರೆ (1–00) ವಿಸ್ತೀರ್ಣವುಳ್ಳ ಖುಷಿ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ:–

ಪೂರ್ವಕ್ಕೆ : ಲಕ್ಷ್ಮೀನಾರಾಯಣಪ್ಪ ರವರ ಜಮೀನು.
ಪಶ್ಚಿಮಕ್ಕೆ : ಖರೀದಿದಾರರಾದ ಎಸ್.ಎ.ಎಲ್. ವಿನಯ್ ರವರ ಜಮೀನು.
ಉತ್ತರಕ್ಕೆ : ಖರೀದಿದಾರರಾದ ಎಸ್.ಎ.ಎಲ್ ವಿನಯ್ ರವರ ಜಮೀನು.
ದಕ್ಷಿಣಕ್ಕೆ : ಈರಪ್ಪ ರವರ ಜಮೀನು.

ಈ ಮಧ್ಯೆ ಇರುವ ಮೇಲ್ಕಂಡ ವ್ಯವಸಾಯದ ಜಮೀನು ಈ ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿ ಪತ್ರಕ್ಕೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ"

"ಕ್ರಯದ ಒಪ್ಪಂದದ ಪತ್ರ

ಸನ್ ಎರಡುಸಾವಿರದ ಏಳನೇ ಇಸವಿ ಆಗಸ್ಟ್ ಮಾಹೆ ತಾರೀಖು ಎರಡು (02.08.2007) ರಲ್ಲು

ಬೆಂಗಳೂರು–78, ಜೆ.ಪಿ. ನಗರ, 1ನೇ ಫೇಸ್/ವಿಭಾಗ,
ಸಾರಕ್ಕಿ, 13ನೇ ಅಡ್ಡರಸ್ತೆ, ಆಂಜನೇಯ ದೇವಸ್ಥಾನದ
ಮುಂಭಾಗದಲ್ಲಿರುವ ಮಾಜಿ 240/2ಂ ಹಾಲಿ 180ನೇ
ಸಂಖ್ಯೆಯ ಮನೆಯಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶ್ರೀ ಅನಂತರಾಜು
ರವರ ಪುತ್ರ ಸುಮಾರು 31 ವರ್ಷ ವಯಸ್ಸುಳ್ಳ
ಶ್ರೀ. ಎಸ್.ಎ.ಎಲ್. ವಿನಯ್

(ಇವರನ್ನು ಇನ್ನು ಮುಂದೆ ಖರೀದಿದಾರರು ಎಂದು ಉಲ್ಲೇಖಿಸಲ್ಪಡುವುದು)

ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ಕೆಂಗೇರಿ ಹೋಬಳಿ,

ಚಿನ್ನಕುರ್ಚಿ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶಿವರುದ್ರಯ್ಯ
ರವರ ಪುತ್ರ ಸುಮಾರು 55 ವರ್ಷ ವಯಸ್ಸುಳ್ಳ
ಶ್ರೀ ಪುಟ್ಟರುದ್ರಯ್ಯ

(ಇವರನ್ನು ಇನ್ನು ಮುಂದೆ "ಮಾರಾಟಗಾರರು" ಎಂದು ಉಲ್ಲೇಖಿಸಲ್ಪಡುವುದು)

XXXX

ಈ ಕ್ರಯದ ಒಪ್ಪಂದದ ಕರಾರನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ಸಾಕ್ಷೀಕರಿಸಲಾಗಿದೆ.

ಮೇಲ್ಕಂಡ ಮಾರಾಟಗಾರರು ಮತ್ತು ಖರೀದಿದಾರರ ಒಪ್ಪಿಗೆಯ ಮೇರೆಗೆ ಕ್ರಯದ ಪೂರಾ ಮೊಬಲಗು ರೂ.20,00,000–00 ಇಪ್ಪತ್ತು ಲಕ್ಷ ರೂಪಾಯಿಗಳನ್ನು ಖರೀದಿದಾರರು ಮಾರಾಟಗಾರರಿಗೆ ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮದಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ಪಾವತಿ ಮಾಡಿರುತ್ತಾರೆ.

1) ರೂ.8,00,000–00 ಎಂಟು ಲಕ್ಷ ರೂಪಾಯಿಗಳನ್ನು ನಗದಾಗಿಯೂ ಮತ್ತು

2) ರೂ.12,00,000–00 ಹನ್ನೆರಡ ಲಕ್ಷ ರೂಪಾಯಿಗಳನ್ನು ಬೆಂಗಳೂರು ನಗರ, ಸ್ಯಾಂಕಿ ರಸ್ತೆಯಲ್ಲಿರುವ ವಿಜಯಾ ಬ್ಯಾಂಕಿನ 02.08.2007ನೇ ತಾರೀಖಿನ 699185ನೇ ಸಂಖ್ಯೆಯ ಚೆಕ್ಕು ಮೂಲಕವೂ ಪಾವತಿ ಮಾಡಿರುತ್ತಾರೆ.

ಈ ಮೊಬಲಗು ಪೂರ್ತಿಯಾಗಿ ಮೇಲ್ಕಂಡಂತೆ ಖರೀದಿದಾರರಿಂದ ಮಾರಾಟಗಾರರು ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ಪಡೆದುಕೊಂಡು ಹಣ ಸಂದಾಯವಾಗಿರುವ ಬಗ್ಗೆ ತಮ್ಮ ಒಪ್ಪಿಗೆಯನ್ನು ನೀಡಿರುತ್ತಾರೆ."

(emphasis supplied)

16. Therefore, the question that falls for consideration is whether, in the absence of a challenge to the foundational documents which form the very basis of the impugned sale deed, the relief sought in the present writ petition is tenable in law, particularly when the adjudication would necessarily involve examination of the

validity, enforceability, and legal effect of the Agreement of Sale and the General Power of Attorney issues which ordinarily fall within the exclusive domain of a competent Civil Court.

17. A perusal of the material on record would clearly indicate that the petitioner has admittedly received a substantial sale consideration amounting to ₹20,00,000/- pursuant to the transaction in question. It is also not in dispute that the petitioner has neither questioned the Agreement of Sale dated 02.08.2007 nor the General Power of Attorney of even date, which form the very substratum of the impugned sale deed. In the backdrop of these admitted and crucial facts, the core question that arises for consideration is whether the petitioner can seek cancellation of the registration of the sale deed solely on the ground that the subject agricultural land, which falls within the jurisdiction of Kengeri Hobli, ought not to have been registered before respondent No.3 at Byatarayanapura. Significantly, a careful reading of the

prayer sought in the captioned petition would indicate that the petitioner is not seeking cancellation of the registered document on the ground of any infraction in the procedure contemplated under Sections 32 to 35 of the Act, 1908, but are, in substance, seeking a declaration that the sale deed itself is null and void.

18. In this context, and having regard to the nature of the relief sought, this Court is of the considered view that the three essential stages comprising the process of registration, as explained by the Hon'ble Apex Court, assume relevance and require consideration. In ***Asset Reconstruction Company (India) Limited vs. S.P. Velayutham and others (supra)***, the Hon'ble Apex Court, on examination of the General Power of Attorney forming the basis of the impugned sale deed, found that the said instrument did not confer any authority upon the power agent to execute a sale deed. On the contrary, the instrument contained an express prohibition against creation of any encumbrance over the property. It was in

this factual backdrop that the Hon'ble Apex Court held that the registering authority had committed a serious error in accepting and registering the sale deed without verifying the scope and authenticity of the authority conferred under the Power of Attorney, thereby turning a blind eye to a patent illegality. Invoking the rules framed under Section 69 of the Act, 1908, the Hon'ble Apex Court held that where the registering authority fails to discharge its statutory duties, whether administrative or quasi-judicial in nature, the writ court would be justified in exercising jurisdiction to annul such registration.

19. Similarly, in the judgment rendered by the Division Bench of the Madras High Court in ***S.P. Vairavan vs. The Sub-Registrar (supra)***, while examining the validity of a registered document, the Division Bench was confronted with an extraordinary situation wherein the very vendor, who was shown to have executed the sale deed, filed a sworn affidavit before the Court categorically stating that he was not the owner of the property and that

the documents in question were forged. In such circumstances, the Division Bench found that the registering authority had failed to undertake even a rudimentary verification as mandated under the statutory framework, thereby vitiating the registration process itself. It was in this exceptional factual matrix that the Division Bench held that the aggrieved party need not be relegated to a civil court, and that the impugned document, being wholly void and *non est,* could be ignored and its registration annulled in exercise of writ jurisdiction.

20. Thus, both the aforesaid judgments proceed on a clear and undisputed factual foundation demonstrating a patent failure on the part of the registering authority to discharge its statutory obligations, thereby bringing the case within the limited category where interference under writ jurisdiction is warranted to correct an illegality in the act of registration itself.

21. However, the facts in the present case stand on a distinctly different footing and are not analogous to those considered either by the Hon'ble Apex Court in ***Asset Reconstruction Company (India) Limited vs. S.P. Velayutham and others (supra)*** or by the Division Bench of the Madras High Court in ***S.P. Vairavan vs. The Sub-Registrar (supra)***. In the case on hand, the impugned sale deed is not an isolated transaction, but is preceded by an Agreement of Sale dated 02.08.2007 coupled with a General Power of Attorney of even date, which, when read conjointly, *prima facie* indicate that the agency created thereunder is one coupled with interest, particularly in light of the admitted position that a substantial consideration of ₹20,00,000/- has been paid by respondent Nos.5 and 6 to the petitioner. The petitioner, despite being recipients of such consideration, has neither questioned the said foundational documents nor sought cancellation in a manner known to law.

22. In this backdrop, it becomes necessary to advert to the law laid down by the Hon'ble Apex Court in the aforesaid decision, wherein the Court has lucidly delineated the three essential steps comprising a valid registration, namely: (i) execution of the document by the executant, including signing or affixing thumb impression; (ii) presentation of the document for registration and admission of execution before the registering authority; and (iii) the act of registration by the registering authority upon satisfaction of the statutory requirements. The Hon'ble Apex Court has categorically held that the scope of interference under writ jurisdiction is confined to examining whether there has been any failure on the part of the registering authority in discharging its statutory or quasi-judicial duties at the stage of registration, i.e., the third step. However, where the challenge is directed against the very execution of the document, or the authority and entitlement of a person to execute such document, or the validity of the underlying transaction,

the same necessarily falls within the realm of adjudication by a competent civil Court.

23. In the present case, though the petitioner has attempted to couch his grievance as one relating to lack of jurisdiction on the part of the registering authority, a deeper scrutiny of the pleadings would reveal that the challenge is, in substance, directed against the very transaction itself. The petitioner has alleged fraud, disputed the conveyance of title, and questioned the legitimacy of the sale deed, which inevitably entails examination of the validity and enforceability of the Agreement of Sale and the General Power of Attorney. Such an enquiry would involve adjudication of seriously disputed questions of fact, including the intention of the parties, passing of consideration, and the nature of the authority conferred matters, which are clearly beyond the limited scope of judicial review under Article 226 of the Constitution of India.

24. Unlike in ***Asset Reconstruction Company (India) Limited (supra),*** where the Hon'ble Apex Court found a patent and undisputed infraction on the part of the registering authority in accepting a document executed by a power agent who had no authority whatsoever to execute a sale deed, the present case does not disclose any such apparent or admitted illegality at the stage of registration. On the contrary, the documents on record indicate that the transaction is founded upon antecedent agreements and that substantial consideration has passed between the parties, thereby giving rise to a triable dispute as to rights and title.

25. This Court is of the considered opinion that the writ petition is not maintainable under Article 226 of the Constitution of India. The relief sought by the petitioner, though couched as one questioning the act of registration, is in substance a prayer to declare the impugned sale deed as null and void, which necessarily involves adjudication of civil rights, title, and validity of underlying transactions.

Such issues fall squarely within the exclusive domain of a competent civil Court. In the absence of any patent illegality in the discharge of statutory duties by the registering authority, the petitioner ought to be relegated to avail appropriate remedies before the civil court.

26. The petitioner has failed to make out a clear and undisputed case demonstrating that the registration of the sale deed dated 12.09.2023 is vitiated solely on account of lack of territorial jurisdiction in contravention of Sections 28, 32, 33 and 34 of the Act , 1908 read with Rule 171 of the Rules, 1965. The contention regarding jurisdiction is intertwined with disputed factual aspects, including the inclusion of additional property and the nature of the transaction, which cannot be conclusively adjudicated in writ proceedings.

27. The allegation that inclusion of Item No.2 property in the sale deed constitutes a colourable exercise to confer jurisdiction upon respondent No.3 raises disputed

questions of fact. Whether such inclusion is bona fide or an artificial device requires detailed examination of evidence, intention of parties, and surrounding circumstances. Such an enquiry is impermissible in writ jurisdiction and must be undertaken by a civil court.

28. The allegations of fraud, collusion, and misuse of the General Power of Attorney, as urged by the petitioner, cannot be adjudicated in summary writ proceedings. These allegations necessitate a full-fledged trial involving appreciation of oral and documentary evidence. It is well settled that disputed questions of fact, particularly involving allegations of fraud, are beyond the scope of writ jurisdiction.

29. The respondents have *prima-facie* established that the transaction is supported by an Agreement of Sale dated 02.08.2007 coupled with a General Power of Attorney of even date and that substantial consideration amounting to ₹20,00,000/- has been paid. The petitioner

has neither denied execution of these documents nor sought to invalidate them. This lends credence to the respondents' contention that the transaction is not ex-facie void, thereby rendering the challenge to the sale deed untenable in writ proceedings.

30. This Court finds no such patent illegality or failure of statutory duty on the part of respondent No.3– Sub-Registrar at the stage of registration that would warrant interference under Article 226 of the Constitution of India. The act of registration, in the present case, does not disclose any apparent violation falling within the limited scope of judicial review over administrative or quasi-judicial acts of the registering authority.

31. The law laid down by the Hon'ble Apex Court in ***Asset Reconstruction Company (India) Limited vs. S.P. Velayutham and others (supra)*** and by the Division Bench of the Madras High Court in ***S.P Vairavan v. The Sub-registrar , Joint-I (supra)*** is not applicable

to the facts of the present case. Both the said decisions were rendered in exceptional circumstances where there was a clear and undisputed infraction on the part of the registering authority, either due to lack of authority under the Power of Attorney or due to admitted fraud by the executant.

32. The present case does not fall within the limited category carved out in the aforesaid judgments. The petitioner herein is not merely questioning an infraction committed by the registering authority at the stage of registration, but are in effect challenging the very transaction, including execution, authority, and validity of the sale deed. Such issues necessarily require adjudication before a civil Court and do not attract the limited writ jurisdiction recognized in the above precedents.

33. Therefore, in the considered opinion of this Court, the petitioner, in the guise of challenging the act of registration, is in effect seeking adjudication of civil rights

and invalidation of a concluded transaction, which cannot be undertaken in writ proceedings. The appropriate remedy for the petitioner is to institute a comprehensive civil suit seeking appropriate declaratory and consequential reliefs. Accordingly, this Court holds that the writ petition is not maintainable and is liable to be dismissed, reserving liberty to the petitioner to avail such remedies as are available to her in law before a competent civil Court.

ORDER

(i) The writ petition is dismissed as not maintainable.

(ii) This Court declines to entertain the prayer seeking declaration of the registered sale deed dated 12.09.2023 bearing Document No.BYP-1-07987-2023-24 as null and void, in exercise of jurisdiction under Article 226 of the Constitution of India.

(iii) Liberty is reserved to the petitioner to avail appropriate remedies before a

competent Civil Court for adjudication of his rights and grievances, in accordance with law.

(iv) All contentions of the parties on merits are kept open.

(v) Pending interlocutory applications, if any, do not survive for consideration and stand disposed of accordingly.

(vi) No order as to costs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

NBM
List No.: 2 Sl No.: 0