



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.09.2020

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.1361 of 2020

Murugan

...Petitioner

Vs

1.The Sub Registrar,
Thamaraipatti at Chittampatti,
Madurai.

2.Muthuchamy

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Refusal Check Slip in Refusal Number FPL/Thamaraipatti/1/2020 issued by the 1st respondent and quash the same as illegal and consequently to direct the 1st respondent to accept the copy of the sale deed document presented by the petitioner dated 06-01-2020 and register the same in accordance with the law.

For Petitioner	: Mr.S.Sukumar
For R1	: Mr.V.Anand Government Advocate
For R2	: Mr.S.A.Ajmal Khan

ORDER

This Writ Petition is filed to call for the records relating to the Refusal Check Slip in Refusal No.FPL/Thamaraipatti/1/2020 issued by the 1st respondent and to quash the same and to direct the 1st respondent to accept the sale deed presented by the petitioner dated 06.01.2020 and to register the same in accordance with the law.

2.According to the petitioner, the property in S.No.80/2 A2A, measuring to an extent of 6 cents situated at A.Valayapatti Village, Melur Taluk, Thamaraipatti Subdivision, Madurai North Registration, Madurai belongs to him and he is the absolute owner of the aforesaid property.

3.Initially, the petitioner had purchased the property, measuring to an extent of 7 cents in UDR S.No.80/2A from one G.V.Kumaresan, vide registered Doc.No.710/2005 on the file of the 1st respondent. Likewise, the petitioner purchased another 4 cents of lands on the southern side of S.No.80/2A from his mother-in-law, Lakshmi Ammal, vide registered sale deed dated 29.08.2005 and thereafter, for the aforesaid properties, measuring to an extent of 11 cents, the petitioner was issued with Joint patta vide Patta



No.801.

4.At this juncture, the petitioner filed a suit in O.S.No.302 of 2012 for permanent injunction against the 2nd respondent herein on the file of the District Munsif Court, Melur. Pending suit, the petitioner sold 5 cents of the said property to one Renganathan, vide registered sale deed dated 23.05.2016. Thereafter, by judgment and decree dated 28.01.2019, the said suit was dismissed on the ground that the extent and four boundaries of the said property have not been properly described. Challenging the same, no appeal is preferred by the petitioner and that the judgment and decree dated 28.01.2019 had attained finality.

5.Thereafter, sub divided the property by the Respondent made and the petitioner was issued with patta in respect of the remaining portion of the property in S.No.80/2A. The petitioner had sold the said property measuring to an extent of 6 cents to one Manikandan and for registering the same, though the petitioner presented the sale deed dated 06.01.2020, before the 1st respondent for registration, without registering the same, the 1st respondent has passed the impugned check slip dated 06.01.2020 stating that the petitioner has to prove his title for the property in S.No.80/2A2A. Challenging the same, the petitioner is before this Court.

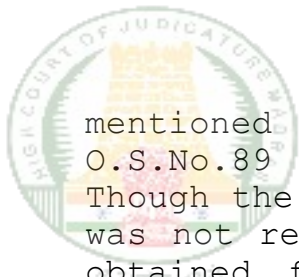
6.The learned counsel appearing for the petitioner would submit that the impugned check slip, issued by the 1st respondent, dated 06.01.2020, is totally illegal and arbitrary and the same is liable to be quashed. In support of his contention, the learned counsel would rely on the order of this Court passed in **W.P. (MD) No.14073 of 2019** dated 25.06.2019.

7.The learned counsel appearing for the 2nd respondent would submit that after the disposal of the suit in O.S.No.302 of 2012, the 2nd respondent filed a suit in O.S.No.89 of 2016 against the petitioner on the file of the District Munsif Court, Melur and the same has been dismissed for non payment of cost, for which, the 2nd respondent is taking necessary steps to restore the said suit.

8.The learned counsel would further submit that as on today the said suit is not restored. He would further submit that being the brother of the petitioner, the 2nd respondent paid money to the petitioner and by utilizing the same, the petitioner had purchased the petition mentioned property in his favour and that therefore, the 1st respondent has rightly rejected the sale deed dated 06.01.2020 to register the same.

9.Heard the learned counsel on either side and perused the records carefully.

10.Admittedly, the petitioner has purchased the petition
<https://hcservices.ecourts.gov.in/hcservices/>



mentioned property and the 2nd respondent had filed a suit in O.S.No.89 of 2016 on the file of the District Munsif Court, Melur. Though the said suit was dismissed for non payment of cost, the same was not restored as on date and there is no interim order has been obtained from the Court below in favour of the 2nd respondent. Therefore, the reason as stated in the impugned check slip dated 06.01.2020 is un-sustainable.

11.Further, it is useful to extract Rule 55 of the Tamilnadu Registration Rules and the same is as follows:-

55.It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but, he is bound to consider objections raised on any of the grounds stated below:-

- i)** that the parties appearing or about to appear before him are not the persons they profess to be;
- ii)** that the document is forged;
- iii)** that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
- iv)** that the executing party is not really dead, as alleged by the party applying for registration; or
- v)** that the executing party is a minor or an idiot or a lunatic;

12.Reading of the said Rule, it is seen that the Registering Officer has no authority to enquire the petitioner or any third party to validate the document presented before him.

13.Further, it is an admitted fact that the 2nd respondent had paid money to the petitioner and by utilizing the same, the petitioner had purchased the petition mentioned property in his favour. Therefore, the 2nd respondent had filed a suit in O.S.No.89 of 2016 as against the petitioner on the file of the District Munsif Court, Melur and admittedly, though the aforesaid suit was dismissed for non payment of cost, as on today, the same was not restored and the 2nd respondent had only filed an application to restore the said suit. Except the aforesaid fact, there is no other material or document has been placed before this Court for justifying the impugned order passed by the 1st respondent dated 06.01.2020.

14.In the light of the foregoing discussions, this Court is of the view that there is no ground on the part of the 1st respondent to refuse for registering the sale deed document dated 06.01.2020 presented by the petitioner in respect of the petition mentioned property. Hence, the impugned check slip dated 06.01.2020 issued by the 1st respondent is liable to be quashed and this Court has no hesitation to quash the same.



15. With the above observations and in view of the order passed by this Court in W.P.(MD) No.14073 of 2019 dated 25.06.2019, the Writ Petition stands allowed. The impugned refusal check slip in Refusal No.FPL/Thamaraipatti/1/2020 issued by the 1st respondent is hereby quashed and the matter is remanded back to the 1st respondent, who shall consider the matter afresh and shall register the sale deed executed by the petitioner dated 06.01.2020, if it is otherwise in order, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Sub Registrar,
Thamaraipatti at Chittampatti,
Madurai.

+1 CC to M/s.GP (SR-15657[F] dated 02/09/2020), (SR-15679[F] dated 02/09/2020)

W.P.(MD) No.1361 of 2020

01.09.2020

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