



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.Nos.3899 & 3901 of 2021

Vellaiyangiri .. Petitioner in both the WPs

Vs.

1. The District Registrar,
Office of the District Registrar,
Park Road, Gobichettypalayam,
Erode.
2. The Sub Registrar,
Satyamangalam, Erode. .. Respondents in both the WPs

Prayer in W.P.No.3899 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records on the file of the second respondent in proceedings Refusal Check Slip in RFL/Sathyamangalam/1/2021, dated 08.01.2021.

Prayer in W.P.No.3901 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records on the file of the second respondent in proceedings Refusal Check Slip in RFL/Sathyamangalam/2/2021, dated 08.01.2021.

For Petitioner : Ms.R.Poornima
in all WPs

For Respondents : Mr.KMD.Muhilan,
in all WPs Government Advocate

C O M M O N O R D E R

(The case has been heard through video conference)

Since both the writ petitions have been preferred on the same set of facts, submissions being common, they are taken up together and disposed of by means of this common order.

2. The writ petitions have been filed against the order passed by the second respondent Sub Registrar refusing to register the sale deeds. According to the petitioner, he is the owner of the property in respect of two Survey Nos.155/2 and 156/2. He purchased the property in respect of S.No.156/2



from one Sengodan. It is a house site in an approved layout. Earlier, there was a dispute in respect of Survey No.155/2 (New S.No.155/2B) and several writ petitions and contempt proceedings were initiated and orders have also been passed, in which the petitioner's vendor was a party. It is also submitted that in respect of S.No.156/2, there was no dispute and no litigation is pending as on today, that apart, those house sites are part of an approved layout. Now the petitioner wants to sell the above properties and produced the sale deed before the second respondent Sub Registrar for registration. The Sub Registrar refused to register the sale deed and issued refusal check slip referring to earlier writ petitions and contempt petitions, stating that since the Sub Registrar was made as a party in the earlier writ and contempt proceedings, unless final orders are passed in the above proceedings, the second respondent Sub Registrar cannot register the sale deeds. Now challenging the said orders present writ petitions have been filed.

3. Mrs.R.Poornima, learned counsel appearing for the petitioners submitted that the earlier dispute was only in respect of another Survey Number 155/2 (new S.No.155/2B) absolutely there is no dispute regarding the present survey number viz., 156/2. It is only a house site in an approved layout and the second respondent Sub Registrar without considering the same has mechanically refused to register the documents.

4. Mr.K.M.D.Muhilan, learned Government Advocate appearing for the respondents after looking into all the documents would fairly submit that the present property sought to be registered is not the subject matter of earlier proceedings. Further, he would submit that against the order passed by the second respondent Sub Registrar, there is an appeal remedy available under Section 72 of the Registration Act and without availing the same the petitioner cannot maintain the writ petitions.

5. I have considered the rival submissions and also perused the records carefully.

6. Perusal of the records, it could be seen that earlier dispute which was referred to by the second respondent in the impugned check slip relates to S.No.155/2 (new S.No.155/2B) and a perusal of the sale deed filed by the petitioner which is available at page number 58 of the typed set of papers shows that the petitioner wants to alienate the property in S.No.156/2 (new S.No.156/2A), which has nothing to do with the property referred to in the earlier proceedings. In such circumstances, quoting the earlier proceedings between the parties in respect of another survey number, the second respondent Sub Registrar cannot refuse to register the documents.



7. So far as the alternative remedy available to the petitioner is concerned, the order passed by the second respondent was prima facie on erroneous consideration and in total non application of mind, and the petitioner need not be driven to file an appeal, hence the contention of the learned Government Advocate cannot be countenanced.

8. In the result, the writ petitions are allowed and the impugned orders passed by the second respondent Sub Registrar are set aside and the second respondent Sub Registrar is directed to register the documents, if they are otherwise in order, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

kk

To

1. The District Registrar,
Office of the District Registrar,
Park Road, Gobichettypalayam,
Erode.
2. The Sub Registrar,
Satyamangalam, Erode.

W.P.Nos.3899 & 3901 of 2021

VBM (CO)
RLP (13.07.2021)