



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7635 of 2021
and W.M.P. No.8155 of 2021

1.Dulasiammal
2.Saraswathi
3.Velathal
4.Rajammal
5.Pechimuthu
6.Ponnammal
7.Selvi
8.Jothimani

.. Petitioners

Vs

1.The Sub-Register,
PunjaiPuliyampatti Sub Register Office,
PunjaiPuliyampatti,
Erode.

2.P.T.Jeganathan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the order dated 16.10.2020 made in Refusal Check Slip in his proceedings Refusal Number: RFL/Punjaipuliyampatti/16/2020 on the file of the first respondent quash the same and consequently direct the first respondent to register the petitioners sale agreement and remove the earlier entries of Document 6841 of 2012.

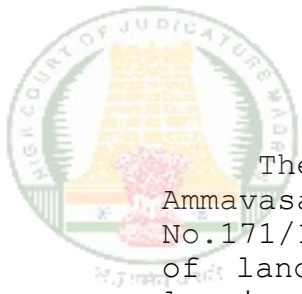
For Petitioners : Mr. K.T.S.Selvakumar

For Respondent-1 : Mr. T.M.Pappiah
Special Government Pleader

O R D E R

This writ petition is filed to issue a writ of certiorarified mandamus to quash the impugned order by way of Cheque Slip dated 16.10.2020, by the first respondent and to direct the first respondent to register the petitioner's sale agreement.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:



The petitioner is one of the legal heirs of one Mr. Ammavasai who was the absolute owner of the property in Survey No.171/1, 177/8, 177/14 for a total extent of 0.67.5 Hectares of land. It is stated that the petitioner's father died leaving behind the petitioner, and her brothers and sisters. It is further stated that the petitioner's brother also died on 12.09.1993, leaving behind his wife and children. It is stated by the petitioner that all the joint owners executed an agreement of sale dated 17.10.2012 and the same was also registered by the respondent. It is the further case of the petitioner that as per the sale agreement, entire transaction should be completed within a period of six months and that the second respondent who was the agreement holder failed to perform his part of the contract. It is the case of the petitioner that they decided to sell the property to one Mr. Velliyangiri. They also entered into an agreement of sale with a purchaser. After executing a sale agreement, the petitioner presented the document for registration before the first respondent. However the first respondent refused to register the document by the impugned order on the ground that the petitioner cannot execute the sale agreement without cancelling earlier agreement of sale.

3. It is well settled that an agreement of sale does not create any right in immovable property. In such circumstances, registration of agreement is only to inform the public about the contract which may or may not be performed. Therefore the Registrar cannot insist on cancellation of agreement for registering the subsequent agreement. The Registrar, in exercising his power under the Registration Act, has no authority to refuse to register any document on the ground or apprehension that the registration of subsequent sale agreement could be opposed by the original agreement holder.

4. The Division Bench of this Court had occasion to deal with the issue elaborately in the case of M.Ramayee Vs. The Sub-Registrar and another in W.P. No.674 of 2010 dated 05.11.2020. After elaborately discussing the various provisions of the Transfer of Property Act and Registration Act, apart from the rules framed under the Registration Act, it was held that the Registrar has no power to refuse to register the document except as provided in the Registration Act. The power of Registrar cannot be extended to refuse to register every document by conducting oral enquiry whether the person executing the document can deal with the property on the apprehension that there may be objection from third parties who may have interest in the land.

5. As a result, the writ petition is allowed and the impugned order by way of Refusal Check Slip bearing Refusal Number: RFL/Punjaipuliampatti/16/2020, on the file of the first respondent is set aside. No costs. Consequently, connected miscellaneous petition is closed. The first



respondent, upon presentation of the document for registration by the petitioner, is directed to register the sale agreement after following the procedure and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

bkn

To

The Sub-Register,
PunjaiPuliyampatti Sub Register Office,
PunjaiPuliyampatti,
Erode.

+1cc to M/s.Revathi Radhakrishnan, Advocate SR.No.19524

+1cc to Government Pleader SR.No.19935

W.P. No. 7635 of 2021

PL(CO)
GMY(20/07/2021)