



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18837 of 2021

Poongodi

... Petitioner

Vs

1. The Sub-Registrar,
Avinashi,
Tiruppur District

2. K.Subramani

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned refusal check slip order dated 16.08.2021 in RFL/Avinashi/17/2021 in Na.Ka.232/2021 on the file of the first respondent herein and quash the same and consequential direct the first respondent herein to register the Memorandum of Deposit of Title Deeds dated 16.08.2021 presented by the petitioner herein.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader (for R1)
: Mr.Mohamed Riyaz (for R2)

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned refusal check slip order dated 16.08.2021 in RFL/Avinashi/17/2021 in Na.Ka.232/2021 on the file of the first respondent herein and quash the same and consequentially direct the first respondent herein to register the Memorandum of Deposit of Title Deeds dated 16.08.2021 presented by the petitioner herein.

2. The petitioner owned the property in Plot No.3/29(5) ad-measuring an extent of 1430 sq.ft comprised in S.F.No.283/1, situated at Perumanallur Village, Tiruppur Taluk as per the registered sale deed dated 27.09.2000, vide Document No.3916 of 2000. On 30.11.2010, the petitioner executed a General Power of Attorney in favour of one R.Vijayakumar, registered vide



Document No.3023 of 2010. Thereafter, the petitioner cancelled the said Power of Attorney on 05.03.2012, registered vide Document No.246 of 2012. However, when the petitioner was verifying the encumbrance, he came to know that the Power of Attorney Holder already had executed agreement for sale dated 18.03.2011, registered vide Document No.14501 of 2011 in favour of the second respondent. The said agreement for sale was executed without knowledge of the petitioner. However, the said agreement for sale has not been cancelled by the second respondent.

3. Thereafter, the petitioner approached ICICI Bank for personal loan by mortgaging the subject property and executed Memorandum of Deposit of Title Deeds dated 16.08.2021 in favour of the said ICICI Bank and presented it for registration, after payment of necessary stamp duty and registration fees on 16.08.2021. However, the first respondent issued the impugned check slip and refused to register the same for the reason that, already registered the agreement for sale dated 18.03.2011, in respect of the property was executed vide Document No.14501 of 2011 and without cancelling the same, the registration cannot be done. In this regard, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2020 (6) CTC 697 (N.Ramayee vs. Sub-Registration, Registration Department), in which this Court held that merely because of agreement for sale is registered without obtaining decree of declaration, such agreement is void and subsequent transfer is prohibited and the document cannot be registered. Therefore, the Sub-Registrar concerned has no right to refuse to register the subsequent document on the basis that agreement for sale was already registered in respect of the subject property.

4. In view of the above, the impugned check slip cannot be sustained and it is liable to be quashed. Accordingly, the impugned check slip dated 16.08.2021 is hereby quashed. The first respondent is directed to register the Memorandum of Deposit of Title Deeds, which was presented for registration dated 16.08.2021 and release the same forthwith. It is needless to say that at any event subsequent transfer will always be subject to the rights already created.

5. In the result, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



kv

To

1. The Sub-Registrar,
Avinashi,
Tiruppur District

+1cc to Mr.L.Mouli, Advocate, S.R.No.67341

+1cc to Mr.Mohamed Riyaz, Advocate, S.R.No.67559

+1cc to the Government Pleader, S.R.No.68282

W.P.No.18837 of 2021

KSM(CO)
CT 06/01/2022