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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26626 of 2021

1. Subramanian
2. Dhamodaran
3. Dhanalakshmi

....Petitioners

Vs

1. The Sub-Registrar,
Registration Department,
Nambiyur,
Tiruppur District.

2. Chinnasamy Gounder

3. Kandasamy

....Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip No.RFL/Nambiyur/2/2021 dated 28.09.2021 on the file of the first respondent herein, quash the same and consequently, direct the first respondent herein to register the sale deed dated 28.09.2021 executed by the petitioners herein to and in favour of Karthikeyan.

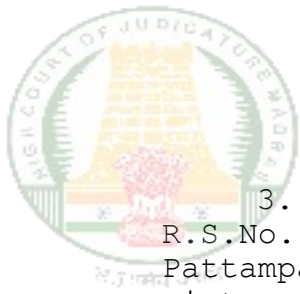
For Petitioners : Mr.K.Govi Ganesan

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip No.RFL/Nambiyur/2/2021 dated 28.09.2021 on the file of the first respondent, quash the same and consequently, direct the first respondent to register the sale deed dated 28.09.2021 executed by the petitioners in favour of Karthikeyan.

2. Heard, Mr.K.Govi Ganesan, learned counsel appearing for the petitioners and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the first respondent.



3. The petitioners are the owners of the land comprised in R.S.No.99/2B admeasuring to an extent of 4.00 acres situated at Pattampalayam Village, Avinashi Taluk, Tiruppur District, by virtue of the partition deed dated 18.04.1989 vide document No.380 of 1984 executed between the petitioners and their family members. They entered into an agreement for sale with one Karthikeyan on 19.04.2021 and the same was registered vide document No.1439 of 2021.

4. While being so, the third respondent had purchased 4.00 acres from Subbaya Gounder, who is also one of the shareholder under the partition deed dated 18.04.1989. After knowing the agreement for sale, they filed a suit in O.S.No.112 of 2021 on the file of the District Munsif Court, Avinashi, as against the petitioners and the agreement holder, for bare injunction in respect of the subject property. In the said suit, the first respondent is also a party. In pursuant to the agreement for sale, the petitioners executed a sale deed dated 28.09.2021 in favour of the said Karthikeyan and presented for registration on the same day. However, the first respondent refused to register the same by way of impugned check slip dated 28.09.2021 for the reason that the Civil Suit is pending in O.S.No.112 of 2021 on the file of the District Munsif Court, Avinashi, in which, the first respondent is also one of the party in the suit.

5. Admittedly, there is no restraint order as against the first respondent to register the sale deed in respect of the subject property. That apart, the suit is only for a bare injunction and there is no impediment for the first respondent to register the same. If at all a protest petition is filed by the respondents 2 and 3 herein, the first respondent ought to have conducted enquiry and pass order either to register or to reject the same. Therefore, mere pending of the Civil Suit is no impediment for the first respondent to register the document.

6. In view of the above, the impugned Refusal Check Slip No.RFL/Nambiyur/2/2021 dated 28.09.2021 on the file of the first respondent, is hereby set aside. The petitioner is directed to re-present the sale deed for registration and on receipt of the same, the first respondent is directed to register and release the same, if it is otherwise in order. It is made clear that if any protest petition is submitted by the respondents 2 and 3 herein, the first respondent is directed to conduct enquiry and pass orders either to register or to reject the same, on merits and in accordance with law.



7. In the result, the writ petition stands allowed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Lpp

To

The Sub-Registrar,
Registration Department,
Nambiyur,
Tiruppur District.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.66774

+1cc to the Government Pleader, S.R.No.67511

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SR[co]
NSK 06/01/2022