



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7873 of 2021

N.Natarajan

...Petitioner

Vs.

1. The District Registrar,
Tirunelveli District, Tirunelveli.

2. The Sub Registrar,
Vallioor, Tirunelveli District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number : RFL/Vallioor /6/2021, dated 15.02.2021, and the inspection report dated 15.02.2021, under Section 27(1) of the Registration Rules issued by the second respondent and quash the same as illegal and consequently direct the second respondent to register the document submitted by the petitioner in TP/100089760/2021, dated 15.02.2021, within a time stipulated by this Court.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.K.Sathiya Singh
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip issued by the second respondent, dated 15.02.2021, wherein, the second respondent has directed the petitioner to get 'No Objection Certificate' from the Local Authority and present the same in order to enable the second respondent to register the sale deed executed by the petitioner on 15.02.2021.

2. The case of the petitioner is that the subject property originally measuring an extent of 1 Acre and 66 cents belonged to the father of the petitioner. After the demise of his father, the petitioner and his brothers partitioned the subject property and an extent of 26 cents was allotted in favour of the petitioner. This partition was also registered on the file of the second respondent on 01.10.2020 as Document No.2156/2020.



3. It is the further case of the petitioner that his brother and sister have already sold their portion of property to the third parties as house sites.

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4. The petitioner executed a sale deed in favour of one Paramasivan with respect to the portion that was allotted to him in the partition deed and presented the same for registration before the second respondent. The second respondent issued a refusal check slip to the petitioner and directed the petitioner to get 'No Objection Certificate' from the Local Authority. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Heard Mr.R.J.Karthick, learned counsel appearing on behalf of the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing on behalf of the respondents.

6. In the present case, the subject property is in the nature of house sites. The second respondent in the impugned refusal check slip has taken note of a gift deed that was executed in favour of the Local Authority, namely, Valliyoor Special Grade Panchayat, which was registered as Document No.2323/2020. This document was executed by the petitioner and others in favour of the Local Authority and the pathway was gifted in favour of the Local Authority. This was required since the concerned land owners for the purpose of getting the planning permission to put up constructions must be able to show that there is a pathway through which they can access their property. By quoting this document, the second respondent has directed the petitioner to get 'No Objection Certificate' from the concerned Authority.

7. In the considered view of this Court, there was no requirement for the petitioner to get 'No Objection Certificate' from the Local Authority. The bar under Section 22-A (2) for refusal to register the document will only apply where the lands have been converted as house sites without the permission of the Planning Authority and the same is sought to be dealt with. The provision makes it very clear that even such house sites, for which, no permission has been granted, can be dealt with, if it is shown that the same house site has been previously registered as a house site. The clarification issued by the Government in this regard also makes it clear that any document registered on or before 21.10.2016 for the very same house site will enable a person to get his document registered by virtue of this proviso.

8. In the present case, the property has been dealt with through various documents even prior to the year 2016 as house sites. That apart, the second respondent has allowed the registration of the partition deed on 01.10.2020 and also the



registration of the sale deeds executed by the brother and sister of the petitioner after the property was partitioned. Obviously, these registrations were allowed by taking into account the earlier registrations that had taken place prior to 2016. Therefore, the petitioner will also fall in the same line as that of his brother and sister and he cannot be treated differently.

9. It is not known as to why the second respondent wanted the petitioner to get a No Objection Certificate from the concerned Local Authority. The petitioner is dealing with his property and the Local Authority has already been vested with the pathway, which was gifted by virtue of Document No.2323 of 2020. This by itself does not warrant a No Objection Certificate from the Local Authority as and when any transactions take place with regard to the house sites.

10. In view of the above, the second respondent ought to have taken into consideration the earlier registrations that have taken place and proceeded to register with the document, if it is otherwise in order.

11. In the result, the impugned refusal check slip issued by the second respondent, dated 15.02.2021, is hereby quashed and there shall be a direction to the second respondent to entertain the sale deed presented by the petitioner, if it is otherwise in order and necessary stamp duty and registration charges are paid. The document shall be released after registration.

12. The Writ Petition stands allowed with the above directions. No costs.

Sd/-

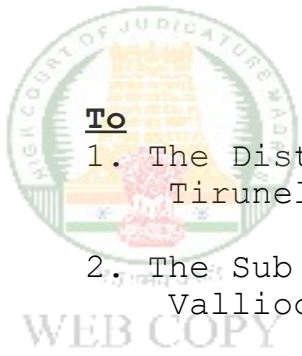
Assistant Registrar (CSI)

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/ /2021

Sub Assistant Registrar(CS)

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

1. The District Registrar,
Tirunelveli District, Tirunelveli.
2. The Sub Registrar,
Vallioor, Tirunelveli District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-17779[F] dated 28/04/2021)

+1 CC to M/s.SPL GP (SR-17899[F] dated 28/04/2021)

Order made in
W.P. (MD) .No.7873 of 2021

Dated:
27.04.2021

GS (9.06.2021) 4P 5C