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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WP.NO.2711 OF 2022

AND

WMP.NO.2887 OF 2022

1. V.Tamil Selvan
2. G.Santhanam

... Petitioners

Vs

- 1 The Inspector General of Registration,
No. 100 Santhome High Road, Chennai 28.
- 2 The Joint-2 Sub Registrar,
Kamarajar Road, Taluk office Campus,
Kanchipuram 631 501.

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus call for the records of the 2nd respondent refusal check slip in refusal Number RFL /2 Number Joint sub Registrar Kanchipuram / 20 /2021 dated 28.12.2021 quash the same and consequently, direct the 2nd respondent to register the partition Deed dated 20.12.2021 submitted by the petitioners for registration.

For Petitioner : Mr.K.M.Balaji

For Respondents : Mr.S.Silambannan, AAG,
Assisted by
Mr.Yogesh Kannadasan, SGP

ORDER

This writ petition is filed seeking to quash the refusal check slip in refusal Number RFL /2 Number Joint sub Registrar Kanchipuram / 20 /2021 dated 28.12.2021 on the file of the 2nd respondent and consequently, direct the 2nd respondent to register the partition Deed dated 20.12.2021 submitted by the petitioners for registration.



2. The case of the petitioner is that the petitioners had jointly purchased the property measuring an extent of 3 Acres and 20 cents, situated at Kalakaatur Village, Kanchipuram Taluk and District through sale deed dated 29.08.2007. The petitioners with an intention to develop the same as house site plots and formed layout. The Deputy Director of Town and Country Planning, Chengalpet Zone, had regularised the same through his proceedings dated 23.11.2018. Thereafter, the petitioners have decided to partition the above said properties, for which, the petitioners have executed a deed of partition dated 20.12.2021 and submitted the same for registration before the second respondent on 28.12.2021 and the same was refused by the second respondent on the same day vide impugned proceedings stating that the petitioners have furnished only the approval in Principle granted by the Deputy Director of Town & Country Planning, Chengalpet dated 23.11.2018 and the same was not submitted with the final regularisation order by the Local Authority and the same is against the circular dated 25.10.2018. That apart, the second respondent rejected the same relying upon the circular No.14441/CI/2018 dated 16.12.2021 issued by the first respondent, which insists upon to register the layout before the Real Estate Regulatory Authority and thereby, refused to register the partition deed dated 20.12.2021 submitted by the petitioners. Challenging the same, the petitioners have filed the present writ petition before this Court seeking to quash the impugned order passed by the second respondent.

3. The learned counsel for the petitioner submitted that as per the circular, the final approval to be obtained for individual plots and it is not for the entire lay out. The second respondent can insist for final approval only when it is sold as individual plots. The partition deed now submitted for registration pertains to partition the property among the owners. The second respondent, without considering the fact, rejected the partition deed submitted by the petitioners, does not warrant any registration before the Real Estate Regulatory Authority. Further, the impugned order passed by the second respondent is in violation of the principle of natural justice, since the second respondent failed to give an opportunity to the petitioners to submit their explanation. Therefore, the learned counsel for the petitioner prays to quash the impugned order and direct the second respondent to register the the partition Deed dated 20.12.2021 submitted by the petitioners.

4. The learned Additional Advocate General appearing on behalf of the respondents submitted that admittedly the petitioners developed the lay out and the same was approved by the competent authority. But the petitioners have not paid any developing charges and registration charges for the plots



during registration. If the petitioners will pay the necessary charges for the above said lands, the documents shall be entertained by the second respondent for registration in accordance with law.

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5. Heard, the learned counsel for the petitioners as well as the learned Additional Advocate General of Tamil Nadu assisted by the learned Special Government Pleader appearing for the respondents, and perused the materials available on record.

6. Considering the facts and circumstances of the case and the limited request made by the learned counsel for the petitioner, this Court without interfering with the impugned order, directs the petitioners to present document for registration after paying necessary charges. Upon receipt of the development and regulation charges and necessary stamp duty, the respondents shall entertain the document and pass appropriate orders, if the document is otherwise in order, after providing necessary opportunity to the petitioners, on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Rli

To

1. The Inspector General of Registration,
No. 100 Santhome High Road, Chennai 28.
2. The Joint-2 Sub Registrar,
Kamarajar Road, Taluk office Campus,
Kanchiuram 631 501.

+1cc to M/s.K.M.Balaji, Advocate, S.R.No.27396

+1cc to the Government Pleader, S.R.No.27314

WP.No.2711 of 2022

and

WMP.No.2887 of 2022

MG(CO)

RLP(13/06/2022)