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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.2739 OF 2022

N.Gnanamani

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Sub-Registrar,
Office of the Sub-Registrar,
Padappai.

2. K.Sudha

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certioraraified Mandamus, calling for the records relating to the impugned refusal slip dated 16.12.2021 on the file of the Sub-Registrar, Padappai, the first respondent herein and quash the same as illegal and consequently, direct the first respondent to register the sale deed dated 16.12.2021 submitted by the petitioner for registration within the time that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.K.Narayanan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for the issuance of a Writ of Certioraraified Mandamus, to call for the records relating to the impugned refusal slip dated 16.12.2021 on the file of the Sub-Registrar, Padappai, the first respondent herein and quash the same as illegal and consequently, direct the first respondent to register the sale deed produced by the petitioner for registration within the time that may be stipulated by this Court.



2. The learned Special Government Pleader takes notice for the official respondents. Since no adverse order is being passed against the second respondents, notice to the second respondents is dispensed with.

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3. The case of the petitioner is that the petitioner entered a sale agreement with one Sudha/second respondent on 21.09.2006. Since the second respondent did not come forward to get the sale executed within the stipulated time of one year, the sale agreement stood terminated. The petitioner sold the property in question in favour of a third party and the said property was purchased on 16.12.2021 and he approached the 1st respondent herein for registering the same. The first respondent refused to register the sale deed for the reason that the petitioner had already entered into sale agreement with the second respondent which is still in force. Though the petitioner explained the reasons, the first respondent refused to register the document and passed the impugned order dated 16.12.2021. For quashing the impugned order passed by the first respondent, this present writ petition is filed by the petitioner.

4. Learned counsel for the petitioner submitted that mere entering into the sale agreement would not bar the petitioner from entering into the sale transaction more so when the sale agreement has not been honoured in entirety. Further, learned counsel submits that this Court may direct the first respondent to register the sale deed produced by the petitioner in accordance with law and pass appropriate orders within a particular time frame that may be fixed by this Court.

5. The learned Special Government Pleader appearing for the respondents submitted that this Court, categorically held that during pendency of the sale agreement, for executing the sale deed in favour of the third parties, if at all, the agreement holder has to go before the competent Court for Cancellation of sale agreement. However, it is submitted that the Sub-Registrar has no power to refuse to register the document.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

7. It is not in dispute that earlier the petitioner had entered into a sale agreement with the 2nd respondent in the year 2006, but the 2nd respondent did not honour the said agreement, and in view of the fact that the transaction did not fructify, the petitioner, thereafter, had entered into the sale transaction with a third party in the year 2021 leading to the execution of the sale deed on 16.12.2021. The 1st respondent is showing his disinclination by not registering the sale deed on



the ground that earlier sale agreement was entered into between the petitioner and the 2nd respondent.

8. The Court is at a loss to understand as to the basis for the 1st respondent not inclined to register the sale deed. It is the duty of the 1st respondent to entertain and register the sale deed after satisfying himself with regard to the title of the petitioner to the property. Execution of any sale agreement by the petitioner with any sale transaction with a third party. Further, it is also to be pointed out that the 2nd respondent, with whom the sale agreement is alleged to have been entered has not objected to the execution of the sale deed by the petitioner. Further, the sale agreement with the 2nd respondent was entered into in the year 2006 and only in the year 2021, the sale deed is sought to be executed by the petitioner in favour of a third party. The 1st respondent, merely citing the earlier sale agreement, cannot desist from registering the sale deed entered into between the petitioner and another third party. The materials have not been properly appreciated by the 1st respondent, which has returned in the passing of the impugned order, which order, does not stand the test of legal scrutiny. The impugned order is wholly unreasonable and the same deserves to be set aside.

9. For the reasons aforesaid, this Writ Petition is allowed and the impugned order dated 16.12.2021 is set aside and the 1st respondent is directed to register the document in question, presented by the petitioner by passing suitable orders within a period of twelve weeks from the date of receipt of a copy of this order subject to payment of Stamp Duty and Registration Charges. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Psa

To
The Sub-Registrar,
The State of Tamil Nadu,
Office of the Sub-Registrar, Padappai.
+lcc to M/s.K.Narayanan, Advocate, S.R.No.10070
+lcc to the Government Pleader, S.R.No.11066

W.P.No.2739 of 2022

SSI (CO)
RLP (14/03/2022)