



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.3719 of 2022

and

WMP.No.3869 of 2022

1. A.Jayabalan

2. J.Jayanthi

... Petitioners

vs.

The Sub Registrar,
(District Registrar Cadre)
Purasawalkam, Chennai-12.

.. Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue an order or direction or Writ and in particular Writ in the nature of a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal check slip dated 07.02.2022 bearing RFL/Purasawalkam/11/2022 issued by the respondent and set aside the same as arbitrary, unjust, whimsical and untenble and consequently, direct the respondent to entertain/accept the deed of sale dated 07.02.2022 executed by B.Mala and 3 others in favour of the petitioners.

For Petitioners : Mr. C.P.Sivamohan

For Respondent : Mr.Yogesh Kanndasan
Special Government Pleader

ORDER

The petitioner has filed this petition seeking to quash the impugned refusal check slip dated 07.02.2022 bearing RFL/Purasawalkam/11/2022 issued by the respondent and also direct the respondent to entertain/accept the deed of sale dated 07.02.2022 executed by B.Mala and 3 others in favour of the petitioners.



2. The facts of the case are as follows:

The petitioners are husband and wife and they entered into an agreement of sale dated 10.06.2021 with one K.Babu and his wife B.Mala for purchasing the property situated at old No.4 part, present No.9, Plot No.1C2, Subarayan Chetty, Second Street, Nammalwarpet, Chennai-12. The sale agreement deed dated 10.06.2021 was registered before the respondent vide document No.3160/2021 and the sale consideration was fixed at Rs.40,00,000/-. The petitioners have paid a sum of Rs.5,00,000/- as advance to the vendors. In the meanwhile, the said K.Babu died on 30.06.2021. On 07.02.2022, the petitioners remitted the registration fee through on-line payment and produced relevant documents before the respondent for registration. After going through the document, the respondent refused to register the document on ground that one Kalyani has filed a protest petition in O.S.No.7065 of 2021, on the file of the IV Additional Judge, City Civil Court, Chennai. Challenging the refusal slip, the petitioners have filed the present writ petition before this Court.

3. The learned counsel for the petitioners submitted that though the said Kalyani filed a suit in O.S.No.7065 of 2021 on the file of the IV Additional Judge, City Civil Court, Chennai as against the petitioners' vendor, however, the respondent is not a party in the said suit and there is no restraint order passed. In the absence of any such restraint order, refusal of registration of sale deed, is unjust and against law. Accordingly, the learned counsel prays to quash the impugned order and allow the present writ petition.

4. The learned Special Government Pleader has produced a communication sent by the Sub Registrar, Purasawalkam to the Office of the Government Pleader wherein it has stated that the relevant document was not registered since a protest petition has been filed by one of the relative of the vendors before the learned IV Additional Judge, City Civil Court, Chennai and the same is pending. The learned Special Government Pleader also submitted that as against the refusal of the Sub Registrar to register the document, the petitioner is entitled to invoke Sections 71 & 76 of the Registration Act, which provide for an appeal provision. Hence, the learned counsel prays to dismiss the writ petition.

5. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

6. This Court is in total disagreement with the action of the respondent in refusing to register the document mainly on



the ground that a protest petition has been filed by one of the relatives of the vendor. It is pertinent to note that the learned Judge, City Civil Court, has not passed any restraint order or interim order or restraining the authorities concerned from executing any form with respect to the property, either by way of sale/lease/rent. In short, as on date, there is no bar for the Registration Department to act on any kind of deed between the vendors and third parties. The petitioners have produced a valid sale agreement entered into between them and the owners of the property and they have also paid the relevant registration fee. That being the case, nothing prevented the respondent from completing the process of registration. Therefore, this Court is in agreement with the case pleaded by the petitioners and has no hesitation to grant the relief sought for by them.

7. For the reasons stated aforesaid, the impugned refusal check slip dated 07.02.2022 bearing No.RFL/Purasawalkam/11/2022 issued by the respondent is hereby quashed and the writ petition stands allowed with a direction to the respondent to register the sale deed executed by one Mala and three others in favour of the petitioners within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed with the above terms. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rli

To

The Sub Registrar,
(District Registrar Cadre)
Purasawalkam, Chennai-12.

+1cc to Mr.C.P.Sivamohan, Advocate, S.R.No.11773
+1cc to the Government Pleader, S.R.No.12782 (28/02/2022)

W.P. No.3719 of 2022
and WMP.No.3869 of 2022

GMR(CO)
SU(24/02/2022)