



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.8592 OF 2022

AND

W.M.P.NOS.8501 & 8503 OF 2022

Senthamarai

... Petitioner

.Vs.

The Sub Registrar,
Harur, Dharmapuri District.

... Respondent

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Refusal Check Slip in refusal No.RFL/Harur/79/2022 dated 28.03.2022 passed by the respondent and to quash the same as illegal, incompetent and ultra vires and consequently direct the respondent to register the sale deed dated 28.03.2022.

For Petitioner : Mr.J.Pradeep

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Refusal Check Slip in refusal No.RFL/Harur/79/2022 dated 28.03.2022 passed by the respondent and to quash the same as illegal, incompetent and ultra vires and consequently to direct the respondent to register the sale deed dated 28.03.2022.

2. The case of the petitioner is that property in Survey Nos.134/1F and 134/2A2 of an extent of 0.89 and 1.25 cents situated at Ellapudayampatty Village, Harur Taluk, Dharmapuri



District, was owned by, one Mariappan, Theerthagiri and Jayaprakash and they are in possession and enjoyment of the property, which is an ancestral property of the said three persons. Thereafter, the said persons executed a sale deed dated 28.03.2022 in favour of the petitioner in respect of the said property and presented the same for registration before the respondent. However, the respondent refused to register the same and issued Refusal Check slip in Refusal No.RFL/Harur/79/2022 dated 28.03.2022 stating that a civil suit in O.S.No.38 of 2022 with regard to subject matter of the property is pending before the District Munsiff Court, Harur. Challenging the said Refusal Check Slip, the present writ petition has been filed.

3. Heard Mr.J.Pradeep, learned counsel for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondent.

4. Admittedly, the petitioner had intended to purchase the property from the above said persons. Therefore, he presented the said document before the respondent on 28.03.2022. However, the said document was returned on the ground that a suit in O.S.No.38 of 2022 was pending and one Appadurai has filed an application in Application No.9 of 2022.

5. In this regard, learned counsel for the petitioner submits that the pendency of any suit is not an impediment for the registering authority to register the document, when the title is in favour of the executant. Mere pendency of the suit is not an impediment or legal obstacle for registering sale deed, since there is no interim order as against the registering authority.

6. He also submits that the issue that arises for consideration in this writ petition is no longer res-integra and to support his contention, he relied upon the judgment reported in 2021 (1) CTC 535 in the case of Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. Inspector General of Registration Department and others, in which, this Court held that the registering authority being statutory authority, has to strictly perform his function in accordance with law. Unless and otherwise a Competent Civil Court passes any interim order restraining the alienation of the property, the registering authority has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the rule of "lis pendens". There is no law in force which says that no transaction can take place during the pendency of the Suit.

7. In view of the above dictum laid down by this Court, the respondent has no right to refuse to register the document



except the documents relating to immovable properties mentioned in Section 22-A of the Registration Act and as contemplated under Rule 162 of the Registration Rules. Hence, the above judgment is squarely applicable to the present case and the impugned Refusal Check Slip dated 28.03.2022 cannot be sustained as against the petitioner and it is liable to be set aside.

8. Accordingly, the impugned Refusal Check Slip in RFL/Harur/79/2022 dated 28.03.2022 is hereby quashed and the respondent is directed to entertain the document submitted for registration and register the sale deed dated 28.03.2022, if it is otherwise in order and if there is no other legal impediment on the same.

9. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sp/jd

To

The Sub Registrar,
Harur, Dharmapuri District.

+1cc to Mr.J.Pradeep, Advocate, S.R.No.23954
+1cc to the Government Pleader, S.R.No.24545

W.P.NO.8592 OF 2022

SJ(CO)
PBS/26/04/2022