



WEB COPY



W.P.No.30152 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.30152 of 2022
and W.M.P.No.29585 of 2022

S.Chinnasamy

... Petitioner

Vs.

1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai – 600 028.

2.The Joint Sub-Registrar No.1,
Thirupathur,
Thirupathur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the refusal check slip issued by the second respondent herein in Refusal Number RFL/Joint Sub Registrar No.1Thirupathur/9/2022 dated 12.07.2022 refusing to register the Sale Deed dated 11.07.2022 executed by the petitioner in favour of his son Prakash and quash the same, consequentially direct the second respondent to register the above said Sale Deed dated



W.P.No.30152 of 2022

11.07.2022.

WEB COPY

For Petitioner : Mr.S.Sathish Rajan

For Respondents : Mr.C.Kathiravan,
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the refusal check slip issued by the second respondent herein in Refusal Number RFL/Joint Sub Registrar No.1Thirupathur/9/2022 dated 12.07.2022 refusing to register the Sale Deed dated 11.07.2022 executed by the petitioner in favour of his son Prakash and quash the same, consequentially direct the second respondent to register the above said Sale Deed dated 11.07.2022.

2. Mr.C.Kathiravan, learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.



WEB COPY

3. The case of the petitioner is that the petitioner is the owner of the property comprised in S.No.159/1A2, bearing patta No.1010 to an extent of 0.08 cents situated at Thirupathur Village. On 11.07.2022, the petitioner presented a Sale Deed executed by him in favour of his son viz., Prakash in respect of the above said property before the second respondent, however, the second respondent refused to register the same and returned the said document along with the refusal check slip in Refusal No.RFL/Joint Sub Registrar No.1Thirupathur/9/2022 for the reason that earlier lapsed sale agreement dated 31.12.2017 vide Doc.No.9622 of 2007 has not been cancelled. Aggrieved over the same, the petitioner has filed this writ petition with the aforesaid prayer.

4. Though very many grounds have been raised, learned counsel for the petitioner submits that Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. He further relied upon the decision of this Court in W.P.No.674 of 2020, judgment dated 05.11.2020. The relevant portion of the above said judgment is extracted hereunder:-



WEB COPY



W.P.No.30152 of 2022

“39. We are of the view that except as provided in the Registration Act and any other statute, the Registrar has no power to refuse to register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void. Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor, etc., and the notification is available with the Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

40. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgment, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in



W.P.No.30152 of 2022

W.P.No.674 of 2020 before the learned single judge for disposal.”

WEB COPY

5. The learned Special Government Pleader appearing for the respondents submits that the document presented by the petitioner was rejected by the second respondent on the ground that earlier sale agreement dated 31.12.2007 registered as Doc.No.9622 of 2007 in respect to the above said property has not been cancelled.

6. In view of the decision of this Court in W.P.No.674 of 2020, judgment dated 05.11.2020, makes it clear that, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property.

7. Accordingly, this writ petition is allowed, the impugned order dated 12.07.2022 is set aside and the second respondent is directed to entertain the documents presented by the petitioner and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.



W.P.No.30152 of 2022

15.11.2022

vm

Index : Yes/No

Speaking Order : Yes/No

M.DHANDAPANI,J.

vm

To:

1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai – 600 028.

2.The Joint Sub-Registrar No.1,
Thirupathur,
Thirupathur District.

W.P.No.30152 of 2022

Page No.6 of 7



WEB COPY



W.P.No.30152 of 2022

15.11.2022