



W.P.No.26204 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.26204 of 2022

1.C.Rajkannan

2.C.Tamilselvan

3.C.Sathish Kumar

.. Petitioners

Versus

The Sub Registrar
Registration Department
Acharapakkam
Chengalpet District

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the Respondent relating to the impugned Refusal Check Slip dated 14.09.2022 vide Refusal Number in TP/132732773/22 on the file of the respondent herein, quash the same and consequently direct the respondent herein to register and release the Sale Deed dated 14.09.2022 executed by the petitioners to and in favour of Indra Devi, W/o.Omprakash.

For Petitioners

:Mr.K.Govi Ganesan

For Respondents

:Mr.C.Kathiravan

Special Government Pleader

ORDER

This writ petition is filed challenging the impugned order passed in Refusal Number: TP/132732773/22 dated 14.09.2022, passed by the respondent



W.P.No.26204 of 2022

and quash the same and consequently direct the respondent herein to register and release the Sale Deed dated 14.09.2022 executed by the petitioners to and in favour of Indra Devi, W/o.Omprakash.

2. According to the petitioners, they own the land measuring 1291 ½ square feet together with built up area of 1100 square feet in three floors each in Granama Natham Old S.F.No.260/1B, New S.F.No.388/2A, situated at Acharapakkam Village, Madurantagam Taluk, Chengalpattu District. They decided to alienate the said property, executed the sale deed and presented the same before the respondent, the respondent refused to register the said deed on the ground that objection petition has been received from one Velu that the petitioners had borrowed sums. Challenging the same, this writ petition.

3. The learned counsel for the petitioner submitted that unless there is a restraining order from the competent Civil Court or under Sec. 22B of the Act, the documents cannot be refused to register by the Sub-Registrar. Hence, prays to allow this writ petition.

4. Heard both sides and perused the materials placed on record. The facts



W.P.No.26204 of 2022

of the present case are not disputed. Admittedly, the Sale Deed presented by the petitioners was rejected by the respondent on the sole ground that objection petition has been received from one Velu that the petitioners had borrowed sums. This Court is of the view that unless there is order from the competent civil court restraining the registration of the documents, the Sub-Registrar is bound to register the document. The issue involved herein is no longer *res integra*. The question as to whether in the absence of any refraining order, the Sub-Registrar is bound to register the presented document. This Court in the case of ***Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration*** and others reported in ***2021 1 CTC 535*** has passed the following directions:

“... 10. The 5th respondent has approached the Civil Court and he has filed O.S.No. 48 of 2019, seeking for the relief of partition and separate possession of 1/27th share in the suit properties. It is also seen that the 5th respondent has filed yet another suit in OS. No. 58 of 2017 in which she has claimed for the relief of permanent injunction restraining the defendants to alienate the suit properties. In both the suits, there is no order passed by the Competent Civil Court injuncting from dealing with the suit properties. What the 5th respondent was not able to achieve before the Civil Court is now sought to be achieved through the 3rd respondent by virtue of a letter given before this Court dated 21.02.2020. The 3rd respondent is a statutory authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under Article 226 of the



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W.P.No.26204 of 2022

Constitution of India can never prevent a statutory authority from performing his function. Therefore, unless and otherwise a competent Civil Court passes any interim order restraining the alienation of the property, the 3rd respondent 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. That is exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that takes place during the pendency of the suit.

11. In view of the above discussion, the impugned letter of the 3rd respondent dated 21.02.2020 is hereby quashed and the 3rd respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary stamp duty and registration fee will be paid at the time of submitting the document for registration.”

5. In view of the above decision, the impugned letter of the respondent dated 14.09.2022 is hereby quashed and the respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary stamp duty and registration fee will be paid at the time of submitting the document for registration.

6. Accordingly, this writ petition stands allowed. No costs.

30.09.2022

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M.DHANDAPANI, J.



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W.P.No.26204 of 2022

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To

The Sub Registrar
Registration Department
Acharapakkam
Chengalpet District

W.P.No.26204 of 2022

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(1/2)