



W.P.No.29780 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.29780 of 2022

I. Usman

. . . Petitioner

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Cheyyur,
Chengalpattu District

. . . Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or Direction specifically Writ in the nature of Certiorarified Mandamus calling for the entire records relating to the refusal Check Slip dated 02.11.2022 in RFL/Cheyyur/106/2022 issued by the respondent herein and quash the same and consequently direct the respondent to register the Sale deed dated 02.11.2022 executed in favour of the petitioner on re-presentation within a time frame to be stipulated by this Court.

For Petitioner : M/s.C.Munusamy

For Respondents : Mr.E.Sundaram,
Government Advocate

ORDER



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The present petition has been filed seeking to quash the impugned refusal check slip dated 02.11.2022 passed by the respondent and to direct the respondent to register the Sale Deed dated 02.11.2022 in favour of the petitioner.

2. It is the case of the petitioner that initially the lands in Survey Nos.309/3C (old No.309/3) & 309/3B (old No.309/3) to an extent of about 10 cents and 90 cents respectively situated in Vembanur Village, Cheyyur Taluk, Chengalpattu District was purchased by three persons namely Marimuthu, Gunasekaran and Kannadasan by way of a registered sale deed dated 26.04.2013. Subsequently, the petitioner having purchased the above said properties from the above said persons for valuable consideration had presented the sale deed for registration before the respondent/Sub-Registrar, however, the registering authority has refused to register the document vide the present impugned order, on the ground that objection has been raised by the National Highways authority for registering the document. Challenging the said order, the present petition has been filed.



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3. Learned Counsel for the petitioner submits that the issue arises in this Writ Petition is squarely covered in *catena* of decisions and the registering authority cannot refuse to register a document presented to him. He further submits that a mere objection raised by the National Highways Authority cannot be a bar for refusing the registration of the sale deed as no restraint order has been passed by any court of law or the competent authority restraining the registering authority from registering the document pertaining to the subject property. In the absence of any restraint order, the respondent is bound to discharge his duty and entertain documents for registration. In view of the aforesaid, the order impugned in this Writ Petition is not sustainable and the same is liable to be interfered with.

4. On the above contentions, this Court, heard the Government Advocate appearing for the respondent and perused the materials available on record.

5. The issue in this case is no longer *res integra* as the similar issue was considered by this Court in the case of ***Vadamugam Vellode NalukaraiNattu Goundergal Sangam Vs Inspector General of***



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Registration, 2021 (1) CTC 535 in W.P.No.12585 of 2020 &

W.M.P.Nos.15518 & 15521 of 2020. The relevant portion of the order is

extracted under as:

*10. The 5th Respondent has approached the Civil Court and he has file 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 O.S.No.58 of 2017 in which kshe has claimed for the relief of Permanent Injunction restraining the Defendants not 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 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 les pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That is exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that take 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.

12. This Writ Petition is accordingly allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.



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6. It is evident from the materials available on record that there is no restraint order as against the alienation of the subject property passed by any authority. In the absence of any restraint order from any Court of law or competent authority, there is no embargo on the registering authority to register the document. Even a perusal of the impugned order reveals that registration has been refused on the ground that objection has been raised by the National Highways Authority, however, a mere objection cannot be a basis to refuse the registration of the document.

7. In view of the above, this Writ Petition is allowed and the Respondent/Sub Registrar is directed to entertain the document produced by the petitioner, on payment of necessary stamp duty and registration charges, if there is no other impediment to register the same. No Costs.

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Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

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To

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