IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM:

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

W.P.Nos.31991 of 2022

and

W.M.P.No.31436 of 2022

1. V.Srinivasan
2. Swarna ... Petitioners

Vs.

The Sub Registrar,
Pappireddipatti Sub Registrar Office,
Pappireddipatti,
Dharmapuri District ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip in RFL/Pappireddipatti/31/2022 dated 10.11.2022 passed by the respondent, quash the same and consequently, direct the respondent to register the settlement dated 21.09.2022 executed by the petitioners in the name of their son Dr.B.S.Sanjaykumar.

For Petitioners : M/s.N.Manoharan

For Respondent : Mr.E.Vijay Anand,
Additional Government Pleader

ORDER

The present petition has been filed seeking to quash the impugned Refusal Check Slip dated 10.11.2022 issued by the respondent and direct the respondent to entertain the petitioner's application to register the settlement deed dated 21.09.2022 executed by the petitioners in the name of their son Dr.B.S.Sanjaykumar.

2. It is the case of the petitioners that they have jointly purchased the property comprised in Old Survey No.42/4, New S.No.42/4AB to the total extent of about 4.06 acres situated in Bo.Mallapuram Village, Dharmapuri District, by virtue of sale deed dated 15.09.1980. In order to settle the above said property in favour of their son viz., B.S.Sanjaykumar, the petitioners have executed a Settlement deed dated 21.09.2022 in favour of their son and placed the same for registration before the respondent herein, however, the respondent had refused to register the same vide the impugned refusal check slip dated 10.11.2022, on the ground that the there is a

discrepancy in the entries made in the revenue records with regard to the actual measurement of the above property. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioners submitted that the revenue authorities having no jurisdiction to decide the title, cannot refuse to register the document by merely referring the entries made in the revenue records as the same will not confer any title to the property. In such view of the matter, the impugned Refusal Check Slip dated 10.11.2022 refusing registration of the document is liable to be set aside.

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

5. The issue involved in this Writ Petition is no longer *res integra* as the same issue has been considered by this Court in ***W.P.(MD)No.24555 of 2022***, order ***dated 14.09.2022***, makes it clear that, by merely citing

discrepancy in the entries made in the revenue records cannot be a ground for refusing to register the document placed for registration, as the revenue records will not confer any title over the property. The relevant portion of the above said order is extracted hereunder:-

> *"4. Learned Government Advocate appearing for the respondent submitted that, the sale certificate presented by the petitioner/bank was refused to be registered, since there is a difference in the extent of the subject property in the revenue records and the title deed produced by the petitioner/bank. However, he fairly submitted that, the title deed prevails over the revenue records.*
>
> *5. Heard learned counsel on either side and perused the materials available on record.*
>
> *6. Admittedly, the subject property was originally owned by the said Sakunthala and the said property was brought to public auction by the petitioner/bank by initiating proceedings under the SARFAESI Act against the said Sakunthala, by declaring her as a defaulter, as she has failed to repay the loan borrowed by mortgaging the said property with the petitioner's bank and thereafter, the said property was purchased by one C.Riyas for a valid sale consideration and subsequently, the sale certificate dated 19.05.2022 was presented for registration and the same was refused to be entertained by the respondent on the ground that there is a difference in the extent of the property mentioned in the sale deed Doc.No.963/2005 and the revenue records.*

> *7. However, it is pertinent to note that, the revenue records will not confer the title over the property and the same can be affirmed only by the title deed. While so, refusing to register the sale certificate presented by the petitioner/bank solely on the ground that a different extent is mentioned in the revenue records is not sustainable. Hence, on the sole ground, the order impugned in this Writ petition is liable to be set aside.*
>
> *8. In view of the above, the present impugned order dated 06.07.2022 passed by the respondent is set aside and the respondent is directed to entertain the document presented by the petitioner/bank and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.*
>
> *9. With the above observations and directions, this Writ petition is allowed. No costs. Consequently, connected Miscellaneous petition is close."*

6. In view of the above decision, the impugned Refusal Check Slip dated 10.11.2022 is set aside and the respondent is directed to entertain the documents presented by the petitioners and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order if it is otherwise in order and the petitioners are directed to pay the requisite Stamp Duty and Registration Charges.

M.DHANDAPANI, J.

NHS

7. Accordingly, this Writ Petition is allowed with above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

29.11.2022

NHS

Index : Yes / No
Internet : Yes / No

To

The Sub Registrar,
Pappireddipatti Sub Registrar Office,
Pappireddipatti,
Dharmapuri District

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