



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.795 of 2022

1.S.Badhri

2.A.Meganathan

... Petitioners

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Foreshore Estate,
Pattinampakkam,
Chennai - 600 028.

2.The Joint 4 Sub-Registrar (Registration),
Madurai South,
Palanganatham,
Madurai - 625 003.

3.K.Pravinth

...Respondents

*(R-3 impleaded vide Court order dated 10.03.2022 in W.M.P.(MD).
No.3192 of 2022 in W.P.(MD).No.795 of 2022)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in RFL/4 Joint Sub Registrar, Madurai South 2/2022 dated 10.01.2022 passed by the second respondent and quash the same and consequently to direct him to register the sale deed dated 10.01.2022 executed by the first petitioner in favour of the second petitioner.

For Petitioners : Mr.V.R.Shanmuganathan
for Mr.I.Saliyakhan

For R-1 and R-2 : Mr.J.John Rajadurai,
Government Advocate.

For R-3 : Mr.B.Palanivelayutham



ORDER

This Writ Petition has been filed challenging the refusal check slip dated 10.01.2022 issued by the second respondent refusing to register the sale deed presented by the petitioners for registration on the ground that there is a prior agreement of sale registered in respect of the very same property.

2. The petitioners have challenged the impugned refusal check slip on the ground of violation of the principles of natural justice and on the ground that the reason for refusal given by the second respondent is not in accordance with law.

3. Heard Mr.V.R.Shanmuganathan, learned counsel for the petitioners, Mr.J.John Rajadurai, learned Government Advocate, who accepts notice on behalf of the first and second respondents and Mr.B.Palanivelayutham, learned counsel, who accepts notice on behalf of the third respondent.

4. Learned counsel for the petitioners drew the attention of this Court to an order passed by a learned Single Judge of the Principal Seat of this Court dated 19.07.2021 in W.P.No.27871 of 2019. In particular, he referred to paragraph 7 of the said order, wherein, the learned Single Judge has referred to a Division Bench order of the Principal Seat of this Court, dated 05.11.2020, in the case of **N.Ramayee Vs. The Sub-Registrar, Registration Department, Valapady 636 115, Salem District and another**, passed in W.P.No.674 of 2020, wherein, the Division Bench has observed as follows:

"37. Accordingly, we answer the reference as follows:

If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules"

The learned Single Judge after following the Division Bench order referred to supra has allowed the Writ Petition filed by the petitioner therein.

5. Learned counsel for the petitioners would submit that the petitioners are entitled for the very same relief. However, learned Government Advocate appearing for the first and second respondents seeks further time to address his arguments by producing authorities



contra to the decision relied upon by the learned counsel for the petitioners.

6. This Court suggested to the learned counsel for the petitioners as to whether the matter can be remanded back to the second respondent for fresh consideration in the light of the decisions relied upon by him, referred to supra, before this Court. For this suggestion, learned counsel for the petitioners, on instructions, agrees. Learned counsels for the respondents has also not raised any serious objection for remanding the matter back to the second respondent for fresh consideration, after affording a fair hearing to the petitioners as well as the third respondent.

7. After recording the submissions made by the respective counsels and in view of the fact that the petitioners have not been afforded an opportunity of hearing by the second respondent before passing the impugned refusal check slip and a non-speaking order has been passed, this Court is of the considered view that the principles of natural justice have been violated and therefore, the impugned refusal check slip issued by the second respondent dated 10.01.2022 has to be necessarily quashed and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioners and the third respondent.

8. In the result, the impugned refusal check slip issued by the second respondent, dated 10.01.2022, is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, in the light of the decision rendered by the Division Bench of the Principal Bench of this Court in the case of **N.Ramayee Vs. The Sub-Registrar, Registration Department, Valapady 636 115, Salem District and another**, passed in W.P.No.674 of 2020, dated 05.11.2020, after affording a fair hearing to the petitioners and the third respondent, including granting them the right of personal hearing. The second respondent is directed to pass final orders within a period of four (4) weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

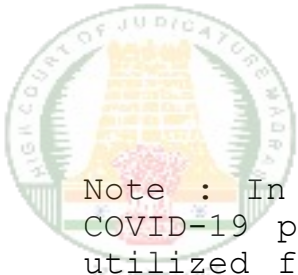
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/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector General of Registration,
100, Santhome High Road,
Foreshore Estate,
Pattinampakkam,
Chennai - 600 028.

2.The Joint 4 Sub-Registrar (Registration),
Madurai South,
Palanganatham,
Madurai - 625 003.

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-14709[F] dated 25/03/2022)

+1 CC to M/s.I.SALIYAKHAN, Advocate (SR-14090[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14300[F] dated 24/03/2022)

**W.P. (MD) .No.795 of 2022
23.03.2022**

KG(CO)
TR(01.04.2022) 4P 6C