



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P. [MD]No.4206 of 2022

and

W.M.P. [MD]No.3604 of 2022

P.N.Vellaisamy

... Petitioner

/Vs./

1. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram,
Chennai-600 028.
2. The District Registrar,
Office of the Registrar of Registration,
Palani Taluk, Dindigul District.
3. The Sub Registrar,
Office of the Sub Registrar of Registration,
Keeranur, Palani Taluk, Dindigul District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order of refusal slip of the 3rd respondent in RFL/Keeranur/8/2022 dated 28.02.2022 and quash the same and consequently direct the 3rd respondent to register the sale deed dated 28.02.2022.

For Petitioner : Mr.S.Ramsundarvijayraj
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order of refusal slip of the 3rd respondent dated 28.02.2022 under which, the sale deed presented by the petitioner for registration was refused to be registered by the third respondent on the ground that the petitioner has not obtained No Objection Certificate from Bharat Petroleum Corporation Limited (BPCL), who are the lessees under the lease deed dated 03.03.2008 registered as Document No.5003/2008. According to the petitioner, arbitrarily and illegally, the impugned order has been passed.



2. It is the contention of the petitioner that the third respondent ought to have seen that the transfer of property through the sale deed presented for registration was made with the concurrence of the vendors and the purchasers and the reconstitution of lease of BPCL was also submitted before the third respondent. According to the petitioner, without considering the same, the impugned order has been passed relying upon the Circular issued by the Inspector General of Registration which has already been declared to be null and void, by Judgment of the Division Bench of the Principal Seat of this Court dated 05.11.2020 passed in W.P.No.674 of 2020.

3. According to the petitioner, there is no necessity to obtain No Objection Certificate from BPCL, who are lessees under the aforementioned lease deed. None of these documents were considered under the impugned order of refusal slip dated 28.02.2022 issued by the third respondent. According to the petitioner, by a non speaking order and by not adhering to the principles of natural justice, the impugned order has been passed. In such circumstances, the petitioner has filed this writ petition.

4. Heard Mr.S.Ramsundarvijayraj, learned Counsel for the writ petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

5. Admittedly, the contentions raised by the petitioner referred to supra have not been considered by the third respondent in the impugned order of refusal slip dated 28.02.2022. The Judgment dated 05.11.2020 passed by the Division Bench of the Principal Seat of this Court in W.P.No.674 of 2020 has also referred to the Circular issued by the Inspector General of Registration referred to in the impugned order which is dated 08.10.2022 and in the said Division Bench Judgment, it has been held in Paragraph No.38 that Circular bars transfer of property on the ground that when a lease is already executed in respect of the property, without expiry of the lease, transfer cannot be permitted or without consent of lessee, registration is unacceptable. Such restriction infringes the very constitutional right of the citizen provided under Article 300A of the Constitution. The Division Bench Judgment referred to supra has not been considered in the impugned refusal slip dated 28.02.2022 passed by the third respondent.

6. A categorical stand has been taken by the petitioner that there is no necessity to obtain No Objection Certificate from the previous lessees ie., BPCL. While that be so, the third respondent ought to have offered a fair hearing to the petitioner including granting him the right of personal hearing before passing the impugned order, which has not been done so, in the instant case.



7. Therefore, after giving due consideration to the aforementioned factors, this Court is of the considered view that principles of natural justice have been violated by the third respondent. Hence, the impugned refusal check slip dated 28.02.2022 issued by the third respondent has to be necessarily quashed and the matter has to be remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and other necessary parties, whom the third respondent deems fit to enquire.

8. Accordingly, the impugned order of refusal check slip dated 28.02.2022 issued by the third respondent is hereby quashed and the matter is remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him a personal hearing and other necessary parties, whom the third respondent deems fit to enquire, within a period of twelve (12) weeks from the date of receipt of a copy of this order. In the final orders to be passed by the third respondent, the third respondent shall take into consideration the Judgment of the Division Bench of the Principal Seat of this Court dated 05.11.2020 passed in W.P.No.674 of 2020 and also other contentions raised by the petitioner in this writ petition.

9. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram,
Chennai-600 028.
2. The District Registrar,
Office of the Registrar of Registration,
Palani Taluk, Dindigul District.



3. The Sub Registrar,
Office of the Sub Registrar of Registration,
Keeranur, Palani Taluk, Dindigul District.

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+1 CC to M/s.SPL GP (SR-11197[F] dated 10/03/2022)

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-10912[F] dated
09/03/2022)

order made in
W.P. [MD]No.4206 of 2022
Dated:**09.03.2022**

kg (CO)
TR(24.03.2022) 4P 6C