



1

W.P.(MD)NO.10287 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10287 of 2021 and
W.M.P.(MD)No.5448 of 2022

R.S. Vijay

... Petitioner

Vs.

1. The Sub Registrar,
Joint No-1 Madurai South,
Madurai 625 001.

2. A. Rajeshwari

3. G. Alaguperumal

(R-2 & R-3 are impleaded vide Order dated 21.02.2022
in WMP(MD)16851/2021)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the refusal Check Slip issued by the 1st respondent in RFL/Madurai, South Joint 1.3.2021 dated 28.04.2021, quash the same in consequence thereof by directing the 1st respondent to register the supplemental Memorandum of Deposit of Title Deeds dated 12.04.2021, presented on 28.04.2021 within the period stipulated by this Court.

(Prayer is amended vide Order dated 01.03.22
in WMP(MD)No.3316 of 2022)



WEB COPY

For Petitioner : Mr.S. Rangasamy

For R-1 : Mr.K.S. Selva Ganesan,
Additional Government Pleader.

For R-2 & R-3 : Mr.J. Barathan

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the private respondents.

2. The petitioner had purchased the subject property under sale deed dated 15.07.1991 (document No.2698 of 1991). Later, certain transactions took place among the members of the petitioner's family which need not be reiterated. Suffice it to say, on the strength of the subject property, the petitioner availed loan in the year 2006. The memo of deposit of title deed was also duly registered. The



writ petitioner wanted additional loan from his banker, namely, Punjab National Bank. The banker wanted to execute supplemental memo of deposit of title deed and also register the same. When the petitioner presented the supplemental memo of deposit of title deed for registering before the first respondent, the same was denied and the impugned check refusal slip dated 28.04.2021 was issued.

3. The first respondent took the stand that the subject property was a part of the suit schedule in O.S.No.524 of 2010 on the file of the Principal Sub Court, Madurai. The said suit was instituted by respondents 2 and 3 seeking declaration that the suit schedule properties are trust properties and that they cannot be alienated. They also sought recovery of possession. The suit was decreed on 21.12.2018. Citing the said decree, the petitioner's request for registration of the supplemental memo of deposit of title deed was negated. Challenging the same, this writ petition has been filed.

4. After hearing the learned counsel on either side, I am more than satisfied that the relief sought for in this writ



petition deserves to granted. The reason is that O.S.No.524 of 2010 was filed on 06.08.2010 without impleading the writ petitioner herein. It is apparent on the face of record that the writ petitioner's interest in the subject property arose prior to the institution of the suit. As already pointed out, the case of the petitioner rests on the registered sale deed dated 15.07.1991 and the subsequently registered sale deeds dated 12.09.2005 and 19.09.2005. Obviously the transactions executed in favour of the writ petitioner were reflected in the encumbrance register. The plaintiffs / respondents 2 and 3 could not feign ignorance of the same. Therefore, the suit filed by respondents 2 and 3 in respect of the suit property without impleading the writ petitioner cannot be binding on the writ petitioner. Therefore, citing the said decree, the first respondent could not have refused to register the supplemental memo of deposit of title deeds. The impugned refusal check slip is quashed. This writ petition stands allowed.

5. I make it clear that the findings rendered in this writ petition are only for the purpose of granting relief in the



5

W.P.(MD)NO.10287 OF 2021

writ petition and that the *inter se* rights of the parties can be adjudicated elsewhere. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2022

Index : Yes / No
Internet : Yes/ No

PMU

To:

The Sub Registrar,
Joint No-1 Madurai South,
Madurai 625 001



WEB COPY



6

W.P.(MD)NO.10287 OF 2021

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.10287 of 2021

07.07.2022