



W.P.(MD)No.12392 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12392 of 2021

G.Loga Narayanan

... Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2.The Sub Registrar,
Melur Sub Registrar Office,
Melur,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the refusal check slip TP/102911023/2021 dated 24.06.2021 issued by the second respondent herein and quash the same and direct the second respondent to register the sale agreement dated 24.06.2021 entered between the petitioner and one, Balathandayutham with regard to the building in S.No.251/2 having 351.5 sq.ft in Madurai Trichy Main Road, Melur, Madurai District.



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For Petitioner : Mr.A.V.Arun

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner presented the document in question for registration before the second respondent. The second respondent declined to register the document and issued the impugned refusal check slip. The stand of the second respondent is that the petitioner had already entered into an earlier sale agreement with another party and had also mortgaged the property in favour of yet another individual. According to the second respondent, without clearing the antecedent liabilities, the petitioner cannot enter into one more transaction. Challenging the stand of the second respondent, the present writ petition has been filed.

3. As rightly pointed out by the learned counsel appearing for the writ petitioner, the issue raised in this writ petition is no longer *res integra*. The Hon'ble Division Bench of this Court was called upon to answer the issue if once sale agreement has been registered by the vendor, the subsequent



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documents in respect of the immovable property can be refused to be registered by the Registrar. Answering the said question, the Hon'ble Division Bench held as follows:

“38. It is also brought to our notice about the new circular in No.24011/C1/2020 dated 08.10.2020. It is the contention of the learned Additional Advocate General that the Registrar has power to regulate the registration in order to prevent fraud and hence, the Registrar is having powers under the Registration Act to regulate the registration and the right to refuse the document and that such power is available under Section 71 of the Registration Act. Such contention is not acceptable for the simple reason that the 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 no registration is permissible. Further, insisting a no objection from mortgagee before registration is also against the very substantive provision of law. If any property is sold with existing mortgage, the transferee steps into the shoes of mortgagor. He has the right to redeem the property by paying the mortgage money. Therefore in the name of regulating the registration, any circular which is in the nature of violating the substantive provision of law, which deals with the transfer of property, then such circular



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cannot stand in the eye of law. If the contention of learned Advocate General that without seeking declaration and cancellation of the agreement of sale, subsequent agreement or transaction cannot be registered, is accepted then such restriction, in fact, infringes the very Constitutional right of the citizen provided under Article 300 A of the Constitution.”

4. Applying the aforesaid ratio, the impugned refusal check slip is quashed and the petitioner is permitted to re-present the document in question and the second respondent shall entertain the same and register it and release it subject to fulfilment of the other usual formalities.

5. This writ petition is allowed. No costs.

20.07.2022

Index : Yes / No

Internet : Yes/ No

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Note: Issue Order Copy on 01.08.2022.

To

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Santhome High Road,
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G.R.SWAMINATHAN, J.

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