



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.17494 of 2021

and W.M.P. (MD) .No.14350 of 2021

WEB COPY

G.Thavamani

.. Petitioner

Vs

The Sub Registrar,
Ettayapuram,
Thoothukudi District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling the records relating to the proceedings of the respondent in Refusal Check Slip No.RFL/Ettayapuram/5/2021, dated 03.09.2021 and quash the same and consequently, direct the respondent to register the sale deed executed by the petitioner, dated 31.08.2021.

For Petitioner

: Mr.R.Murali

For Respondent

: Mr.S.Shanmugavel

Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip dated 03.09.2021, issued by the respondent, under which the sale deed presented for registration by the petitioner has been refused to be registered on the ground that the Economic Offences Wing of the Police Department has sent a communication dated 10.02.2020, requesting the respondent not to register any document pertaining to the property, which is the subject matter of the sale deed presented by the petitioner for registration.

2.It is the case of the petitioner that she is the owner of the property comprised in S.Nos.119/9, 72/3, 8/4, 88/10, 88/15 & 88/16, measuring a total extent of 1 Hectare and 23 ares, situated at Podupatti Village, Ettayapuram Taluk, Thoothukudi District, having purchased the same under a sale deed dated 19.07.2019. According to her, ever since the purchase, she has been in peaceful possession and enjoyment of the property. Se has also obtained patta in her name on 14.12.2020. It is her case that due to her financial position, she has to sell the property and therefore, she presented the sale deed executed by her in favour of one M.Ayyadurai, for registration with the respondent on 31.08.2021. However, according to the petitioner, arbitrarily and illegally the respondent has issued the impugned refusal check slip dated 03.09.2021, stating the grounds mentioned supra for refusing to register the said sale deed. Aggrieved by the same, she has preferred this writ petition.



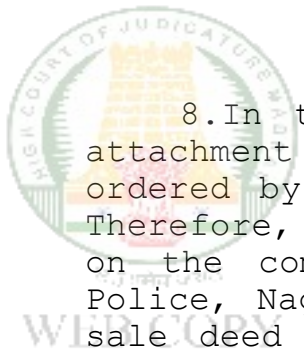
3.A counter affidavit has been filed by the respondent denying the contentions of the petitioner. According to them, only in accordance with the communication dated 10.02.2020, received from the District Superintendent of Police, Nagercoil, Kanniyakumari District, the respondent has refused to register the sale deed presented by the petitioner for registration. According to the respondent, as per the communication, the Economic Offices Wing of the Police Department, has directed the respondent not to register sale deeds pertaining to the property, which is the subject matter of the sale deed, which was presented for registration by the petitioner.

4.The respondent has also referred to the Circular in Letter No.18339/C1/2021, dated 25.04.2012 issued by the Inspector General of Registration and would submit that in terms of the said Circular, the respondent has rightly refused to register the sale deed presented by the petitioner for registration.

5.Heard Mr.R.Murali, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, appearing for the respondent.

6.As seen from the impugned refusal check slip, dated 03.09.2021, excepting for referring to a communication received by the respondent from the District Superintendent of Police, Nagercoil, Kanniyakumari District, dated 20.02.2020, who has directed the respondent not to register any documents pertaining to the property, which is the subject matter of the sale deed presented by the petitioner for registration, the said Authority under which the said communication was sent by the District Superintendent of Police, Nagercoil, has not been mentioned. The said communication referred to in the impugned order has not been issued in accordance with any statutory provision. But it is only a communication issued by the District Superintendent of Police, Nagercoil on his own. Admittedly, there is no Court attachment or no statutory attachment as per the provisions of any statutory enactments.

7.The learned counsel for the petitioner has also relied upon a decision of learned Single Judge of this Court in the case of ***R.Madhupriya and another Vs. Inspector General of Registration and two others***, dated 09.09.2020 passed in ***W.P. (MD).No.12289 of 2020 and W.M.P (MD).No.15086 of 2020***. In the said decision also similar issue arose and the learned Single Judge, after considering another order passed by this Court on 03.08.2020 in ***W.P. (MD).No.1680 of 2020***, held that refusal of registration of documents merely based on letters issued by the police is improper unless a proper order of attachment is obtained from the competent authority, under the relevant enactment.



8. In the instant case also admittedly, there is no order of attachment obtained from any Court of law or no attachment has been ordered by a competent authority based on a statutory provisions. Therefore, the contention raised by the respondent that only based on the communication received by the District Superintendent of Police, Nagercoil, dated 10.02.2020, they refused to register the sale deed presented by the petitioner for registration cannot be accepted by this Court as the communication is not based on a statutory provision, which empowers the District Superintendent of Police to direct the respondent not to register documents. Therefore, the contention raised by the respondent in the counter affidavit has to be necessarily rejected and the contentions of the petitioner in the affidavit filed in support of the writ petition has to be accepted.

9. Any Circular issued by the Inspector General of Registration will have legal sanctity only if the same has been issued pursuant to a statute. In the case on hand even though in the counter affidavit filed by the respondent, there is a reference to the Circular issued by the Inspector General of Registration, the said Circular has not been issued based on any statutory provision. Therefore, the same will have to be rejected as it has got no legal sanctity.

10. For the foregoing reasons, this writ petition is allowed by quashing the impugned refusal check slip, dated 03.09.2021, issued by the respondent and by directing the respondent to register the sale deed dated 31.08.2021, executed by the petitioner in favour of Ayyadurai, if the sale deed is otherwise in order and the petitioner has paid the necessary stamp duty and registration charges for the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

TM

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

The Sub Registrar,
Ettayapuram,
Thoothukudi District.

WEB COPY

+1 CC to M/s.R.MURALI, Advocate (SR-8440[F] dated 24/02/2022)

W.P. (MD) No.17494 of 2021

23.02.2022

MGJ(11.03.2022) 4P 3C