



W.P.No.791 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.791 of 2023
and W.M.P.No.736 of 2023

M.C.Subramaniam

.... Petitioner

-Vs-

1 The District Registrar
Registration Department
Erode district
Erode

2 The Sub Registrar
Registration Department
Chennimalai, Erode District.

3 T.Senthilkumar

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 2nd respondent in her proceedings Refusal Check Slip No. 51 of 2022 dated 23.12.2022 and quash the same and consequently direct the 2nd respondent to register the sale deed dated 21.12.2022 on receipt of the stamp duty as well as Registration Charges and return back to the original sale deed.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader-for RR 1 & 2
Notice dispensed with - R3



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ORDER

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The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 2nd respondent in her proceedings Refusal Check Slip No. 51 of 2022 dated 23.12.2022 and quash the same and consequently direct the 2nd respondent to register the sale deed dated 21.12.2022 on receipt of the stamp duty as well as Registration Charges and return back the original sale deed.

2. The petitioner was having land of 40 cents at Survey No.223 (R.S.No.150/1C), Attavanai Pidariyur Village, Erode Taluk, Erode District, which was in fact purchased by the petitioner by way of sale deed dated 01.06.1996 from the erstwhile owner. Long years back, the petitioner and the father of the 3rd respondent entered into an agreement as the 3rd respondent's father was having the land adjacent to the petitioner's land to jointly develop a cinema theatre. Accordingly, the theatre was constructed and it was run for several years by both the parties.

3. At one point of time, after the demise of the 3rd respondent's father, when the 3rd respondent has taken over the cinema theatre for running the same, the lease amount has been given to the petitioner as his share during that period and subsequently the cinema theatre was closed, 'C' Form license was



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cancelled and it was demolished since it was in a dilapidated condition.

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4. Therefore, as of now the 40 cents of land is a vacant land and likewise the remaining land of the 3rd respondent also has become vacant. Now, the petitioner wanted to sell the 40 cents of land belongs to him and therefore, he presented the sale deed before the 2nd respondent for registration, which was refused. Therefore, the impugned check slip dated 23.12.2022 is challenged in the present writ petition.

5. Assailing the said refusal check slip, the learned counsel for the petitioner would submit that, the reason now stated by the 2nd respondent in the impugned refusal check slip is that, because of the agreement entered into between the petitioner and the 3rd respondent still subsists and suit filed by the petitioner wherein the property belongs to the 3rd respondent has been attached as attachment before judgment, unless the attachment is removed and the agreement between the petitioner and the 3rd respondent is cancelled, the document cannot be registered. Therefore, by stating the said reason, the 2nd respondent has refused to accept the registration through the impugned refusal check slip and hence the learned counsel for the petitioner would contend that the said reason cited by the 2nd respondent would not stand in the legal scrutiny.



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6. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader who would submit that, if at all there has been any agreement between the petitioner and the 3rd respondent as the recital of the said agreement since has not been produced by the petitioner, it cannot be accepted by the 2nd respondent that it was only agreement to develop the property by way of a joint venture into a cinema theatre and that was also demolished after running for several years and as of now the land belongs to the petitioner has become free and it is vacant land, there is no impediment for the petitioner to encumber the property. In order to satisfy the 2nd respondent, those documents since ought to have been produced and since the same were not produced, the 2nd respondent has taken such a decision. Hence, the learned Special Government Pleader wants to sustain the order of the 2nd respondent.

7. In view of the order that is going to be passed in this writ petition, notice to the 3rd respondent is hereby dispensed with.

8. Insofar as the 3rd respondent's interest is concerned, if at all he has got an interest over the property which is the property of the 3rd respondent's father, that property can never be encumbered by the petitioner and the present sale deed presented by the petitioner is only in respect of the 40 cents belongs to the petitioner. Therefore, in respect of the said land, the 3rd respondent has



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nothing to do with and insofar as the suit filed by the the petitioner against the 3rd respondent is concerned, if at all the suit is decreed, it can be in favour of the petitioner. Assuming the suit is dismissed in favour of the 3rd respondent, even then the 3rd respondent's role is nothing with regard to the property in question which is sought to be encumbered by the petitioner by way of the document presented for registration.

9. Therefore, this Court is of the view that the reason stated by the 2nd respondent in the impugned refusal check slip is untenable and hence the said communication is liable to be interfered with.

10. In the result, this writ petition is disposed of with the following order.

- The impugned refusal check slip dated 23.12.2022 passed by the 2nd respondent is set aside and the matter is remitted back to the 2nd respondent with a direction that the 2nd respondent shall scrutinize the documents filed by the petitioner for registration and on satisfaction that the land in question ie., 40 cents of the land in the aforesaid Survey Numbers since belongs to the petitioner and if the said land is encumbered, unmindful of the suit filed by the petitioner, where he was able to get an attachment order against



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the 3rd respondent, the 2nd respondent can proceed to register the document in question if the same is otherwise in order.

- The needful as indicated above shall be undertaken by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order.

With the above directions, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

11.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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To

- 1 The District Registrar
Registration Department
Erode district
Erode
- 2 The Sub Registrar
Registration Department
Chennimalai, Erode District.



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R. SURESH KUMAR, J.

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