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WP No.2272 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.2272 of 2023

R.Arunkumar

... Petitioner

Vs.

The Sub-Registrar,
Gandhipuram Sub-Registrar Office,
Gandhipuram,
Coimbatore.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to release the Sale Deed dated 07.04.2022, registered as Document No.3822 of 2022, on his file to the petitioner.

For Petitioner

: Mr.A.E.Ravichandran

For Respondent

: Mr.T.Arunkumar,
Additional Government Pleader.



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ORDER

The Writ of Mandamus has been instituted to direct the respondent to release the Sale Deed dated 07.04.2022, registered as Document No.3822 of 2022 on the file of the respondent to the petitioner.

2. The writ petitioner purchaser presented Sale Deed, which was registered by the Registering Authority. However, the registered document has not been released by the Authority Competent. The petitioner made representation for release of the said document, which was not considered by the respondent and therefore, the petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner mainly contended that the documents registered by the Competent Authority cannot be withheld under Section 61(2) of the Registration Act. The Sub Registrar is bound to release the document and he has no other option. Thus the action of the respondent is in violation of Section 61(2) of the Registration Act.



4. The learned Additional Government Pleader appearing on behalf of the respondent, based on the instructions, made a submission that the Sub Registrar, after registering the document, found that it is a house site and there is no permission/approval from the Competent Local Authority and therefore, the said document cannot be released.

5. In this regard, the learned Additional Government Pleader appearing on behalf of the respondent relied on Section 22-A(2) of the Registration Act, where instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from the Planning Authority concerned is to be refused.

6. Section 22-A of the Registration Act was inserted by the Tamil Nadu Act 28 of 2012 dated 21.06.2012 came into effect from 20.10.2016. Sub Section contemplates lay out permission or permission from the Local Authority in respect of house sites are mandated. Explanation I to Sub Section (2) to Section 22-A, defines 'Local Authority'. Therefore, the petitioner ought to have been produced the copy of the



approval/permission from the Local Authority as defined under Sub Section (2) to Section 22-A of the Registration Act.

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7. In the present case, the petitioner has not produced the approval / permission and therefore, the respondent is right in refusing the document to be released.

8. Section 22-A of the Registration Act provides powers for refusal to register certain documents. No doubt, the Registering Authority is empowered to refuse to register certain documents. In this context, whenever a document is presented by the persons, the Registering Authority is bound to scrutinise the same as to whether such document presented is registrable or not. Once the document is registered, then it cannot be withheld by the Registering Authority without any valid reason.

9. In the present case, no doubt, the document was presented by the petitioner with defect. At the time of presentation, the petitioner ought to have produced the permission/approval order from the Local Authority, which he failed to do so.



10. That being the factum, the respondent ought not to have registered the document at the instance of the petitioner and he has committed lapse in registering the same. In respect of such lapses, the Inspector General of Registration has to initiate appropriate action against the officials, who all are committing lapses, negligence and dereliction of duty.

11. As far as the document registered at the instance of the petitioner is concerned, the learned counsel for the petitioner made a submission that the petitioner will obtain the permission/approval from the concerned Local Authority and produce the same before the respondent.

12. In view of the said submission, the respondent is directed to release the document in the event of submitting the permission/approval order from the Local Authority in compliance with the provisions of Section 22-A(2) of the Registration Act.



13. With the above directions, the writ petition stands disposed

of. However, there shall be no order as to costs.

14-06-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn



To

The Sub-Registrar,
Gandhipuram Sub-Registrar Office,
Gandhipuram,
Coimbatore.

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S.M.SUBRAMANIAM, J.

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