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W.P.Nos.3667 & 3713 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.3667 & 3713 of 2023

1. M.Swaminathan

2. S.Manivannan

3. S.Ilangovan

... Petitioners in both the W.Ps.

Vs.

The Sub Registrar,
Kodambakkam Sub Registrar Office,
Chennai-600 026.

... Respondent in both the W.Ps.

Prayer in W.P.No.3667 of 2023:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, calling for the records in impugned refusal check slips bearing RFL/ Kodambakkam/ 113/ 2022 dated 23.12.2022 on the file of the respondent and quash the same and consequently direct the respondent to register the sale agreement dated 15.12.2022 under which the petitioners are conveying their joint property being a portion of the above said property ie. an extent of 1242 sq.ft of UDS out of the site measuring 2760 sq.ft and an extent of 1800 sq.ft in the first floor and an extent of 810 sq.ft in the southern portion of the 2nd floor of House and Ground at Old No. 28/1, New No.2, Dr. Gopalan road, Kodambakkam, Chennai-24



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Prayer in W.P.No.3713 of 2023:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, calling for the records in impugned Refusal Check Slip bearing RFL/ Kodambakkam/ 112/2022 dated 23.12.2022 on the file of the respondent and quash the same and consequently direct the respondent to register the Sale Agreement dated 15.12.2022 under which the petitioners are conveying their joint property being a portion of the above said property ie. an extent of 1518 sq.ft. of UDS out of the site measuring 2760 sq.ft. and an extent of 1752 sq.ft. of ground floor and an extent of 180 sq.ft. in the north western portion of the first floor and an extent of 810 sq.ft. in the northern portion of the second floor of House and Ground at Old No.28/1 , New No.2, Dr.Gopalan Road, Kodambakkam, Chennai-600 024.

For Petitioners
in both the WPs. : Mr.B.Mohan
For Respondent
in both the WPs. :Mr.D.Ravichander, Spl.Govt.Pleader

ORDER

The impugned refusal check slip dated 23.12.2022 is sought to be quashed in the present writ petitions.

2.The first writ petitioner is a mentally ill person and the second petitioner is the father of the first petitioner who is representing the case.



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The 3rd petitioner is the paternal uncle of the first petitioner. The petitioners presented a sale agreement for registration before the Sub Registrar Kodambakkam. Along with the document, the petitioners have submitted the decree passed by the City Civil Court in M.H.O.P.No.304 of 2011 wherein the second petitioner who is none other than the father of the petitioner was appointed as legal guardian.

3.The Registering Authority has stated that the second petitioner S.Manivannan is appointed as guardian for the person and the property of his son i.e. M.Swaminathan, who is suffering from mental illness. In view of the fact that there is no specific order granting power to alienate the property in favour of the second respondent, the Registering Authority refused to register. Such a stand taken by the Sub Registrar is unnecessary in view of the fact the first petitioner is mentally ill person and the second petitioner who is none other than his father was appointed as guardian for the person and property.

4.That being the factum, the second petitioner is empowered to deal with the property in the interest of the mentally ill person and to protect his life and livelihood.



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5. Hence, the objections raised by the Registering Authority is beyond the scope of his powers conferred under the Registration Act and thus, the impugned order is untenable. Accordingly, the impugned refusal check slip issued by the respondent in proceeding number RFL/Kodambakkam/113/2022 and RFL/Kodambakkam/112/2022 dated 23.12.2022 are quashed. The respondent is directed to proceed with the registration if the document is otherwise in accordance with the procedures contemplated. The said exercise is directed to be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petitions stand **allowed**. However, there shall be no order as to costs .

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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To
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The Sub Registrar,
Kodambakkam Sub Registrar Office,
Chennai-600 026.



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S.M.SUBRAMANIAM. J.,

(sha)

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