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W.P.No.3331 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3331 of 2023

P.Balamurugan

... Petitioner

-Vs-

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2. The District Registrar,
Office of the Registration Department,
Krishnagiri District, Krishnagiri.

3. The Sub-Registrar,
Krishnagiri SRO,
Krishnagiri District.

4. A.Mokthuiyar

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the 3rd respondent in the Refusal Check Slip dated 04.01.2023 in RFL/1/Joint-I, Krishnagiri Sub-Registrar/2/2023 and to quash the same, consequently direct the 3rd respondent to register the sale deed dated 08.12.2022 and to return the original sale deed forthwith.



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For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader [R1
to R3]

ORDER

The prayer sought for herein is for a writ of Certiorarified Mandamus, to quash the impugned Refusal Check Slip dated 04.01.2023 issued by the third respondent in RFL/1/Joint-I, Krishnagiri Sub-Registrar/2/2023 and consequently direct the 3rd respondent to register the sale deed dated 08.12.2022 and to return the original sale deed forthwith.

2. The petitioner presented a document of sale deed in respect of a land for registration before the third respondent, who having considered the same refused to register the said document and issue a refusal check slip dated 04.01.2022, which is impugned herein.

3. The reason stated by the third respondent in the impugned order is that in respect of the very same survey number a civil suit has been filed by the fourth respondent, where the third respondent has also been



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arrayed as one of the party defendants and the said suit is pending before the concerned Court i.e., District Munsif Court, Krishnagiri, therefore, because of the pendency of the suit, where the third respondent is also arrayed as a party, the third respondent does not want to register the document and that has been stated as reason in the impugned refusal check slip.

4. Assailing the same, Mr.C.Prabakaran, learned counsel appearing for the petitioner would submit that the fourth respondent is a third party or a stranger according to the petitioner and in fact, he had filed a suit against the original owner of the property viz., one Francis Xavier and that suit itself was also dismissed, as against which, appeal was filed by the fourth respondent and the said appeal was dismissed for default, as against which, no further action was taken by the fourth respondent. Thereafter, the original owner had sold the property to one T.Suresh Kumar and G.Poomathi, who are in fact the vendors of the petitioner from whom the petitioner purchased the property, for which, the document in question was presented for registration.



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5. It is further submitted by the learned counsel appearing for the petitioner that the fourth respondent has filed further suit against the immediate vendors of the petitioner and that suit also is pending. Hence, the learned counsel would submit that mere pendency of the civil suits would no way preclude the power of the third respondent to entertain a document if it is otherwise in order within the meaning of provisions of Registration Act, 1908 [in short, 'the Act'] and the Rules made thereunder. Therefore, the reason now stated by the third respondent through the impugned Refusal Check Slip would not stand in the legal scrutiny. Accordingly, he seeks indulgence of this Court.

6. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 3 and in view of the order going to be passed in this writ petition, notice to the fourth respondent is hereby dispensed with.

7. Learned Special Government Pleader would submit that, no doubt it is a settled proposition that mere pendency of a civil suit would not preclude the Registering Authority from entertaining any document



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for registration, if it is otherwise in order, moreover, in the pending suit, there was no interim order granted by the Civil Court restraining the Registering Authority from entertaining any document pertaining to the property in question. When that being so, the third respondent since has been arrayed as one of the party defendants in the pending civil suit, he might have refused the document without registering the same and to that extent the apprehension of the third respondent may be appreciated, the learned Special Government Pleader contended.

8. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

9. Insofar as the legal position as to whether such kind of documents can be entertained if a civil suit is pending is concerned, number of orders have been passed by this Court on various occasions, where unless the Civil Court restrains the Registering Authority from registering the document, no such restriction can be imposed by the Registering Authorities for entertaining the document for registration.

10. In the case in hand, even though two civil suits have been filed



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by the fourth respondent, in any of the suit, no interim orders have been passed prohibiting or restraining the third respondent or any other Registering Authority from entertaining any document like the present one pertaining to the property in question. When that being so, the third respondent imposed such restriction merely because the third respondent has been arrayed as one of the party respondents and therefore, in that context, the reasons now stated by the third respondent in the impugned refusal check slip would not be sustained.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

- ◆ That the impugned order is set aside and the matter is remitted back to the third respondent and the third respondent shall proceed with the registration of the document in question presented by the petitioner, if the document is otherwise in order within the meaning of the provisions of the Registration Act, 1908 as well as the Rules made thereunder.
- ◆ It is made clear that, insofar as the right of the fourth respondent is concerned, if he ultimately succeeds in the civil suits, which he has



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already initiated, it is needless to mention that the registration to be made in this regard as directed above, shall be subject to the outcome of such order to be passed by the Civil Court.

With these directions and observations, this writ petition is disposed of. No costs.

07.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
mp

To

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R. SURESH KUMAR, J.

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