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W.P.No.2847 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2847 of 2023
and W.M.P.Nos.2966 & 2971 of 2023

P.Yuvaraj

.... Petitioner

-Vs-

1.The Inspector General of Registration
Santhome High Road, Mylapore
Chennai 600 004.

2.The District Registrar
District Registrar Office
Namakkal,

3.The Sub Registrar
Joint I Sub Registrar Office
Namakkal.

.... 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 records of the 3rd respondent relating to the impugned order / refusal check slip in RFL / 1 dated 28.12.2022 pertaining to the sale deed for registration of the Petitioner in TP / 137747802 / 2022 quash the same and to issue direction to the 1st respondent to register the sale deed by permitting the Petitioner to take fresh token and time slot for registration of the sale deed of the Petitioner in TP / 137747802 / 2022 dated 28.12.2022.



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For Petitioner : Mr.S.Muthu Kumar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent relating to the impugned order / refusal check slip in RFL / 1 dated 28.12.2022 pertaining to the sale deed for registration of the Petitioner in TP / 137747802 / 2022 quash the same and to issue direction to the 1st respondent to register the sale deed by permitting the Petitioner to take fresh token and time slot for registration of the sale deed of the Petitioner in TP / 137747802 / 2022 dated 28.12.2022.

2. The petitioner is the proposed purchaser in respect of the property in question from one Sathish Kumar, who purchased the property by way of auction sale conducted in this regard and sale certificate was issued and it was also registered in the concerned registrar office. Therefore, vendor of the property has become the absolute owner of the property and when he sells the property to the petitioner, the document in question has been refused through the refusal check slip dated 28.12.2022 issued by the 3rd respondent. Challenging the same, the present writ petition has been filed.



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3. Reiterating the aforesaid, the learned counsel for the petitioner seeks the indulgence of this Court.

4. Learned Special Government Pleader would submit that, as against the vendor of the petitioner there has been an arbitration proceedings pending and therefore, the pendency of the arbitration proceedings has been shown as one of the reason for refusal.

5. I have heard the submissions made by the learned counsel for both sides and have perused the materials placed on record.

6. Insofar as the pendency of the arbitration proceedings is concerned, the Courts have already held that, even mere pendency of civil suit is not a bar for registering the documents unless a prohibitory order is passed by the concerned civil Court. Here in the case on hand, no prohibitory order has been passed with regard to the registration of the property in question. Moreover, the vendor of the property is the absolute owner of the property. Since he purchased the property by auction sale and sale certificate has been issued in this regard, this Court prima facie feels that, there could be no further impediment for the encumbrance by way of sale towards the petitioner.



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Therefore, the reason cited by the 3rd respondent in the impugned refusal check slip may not be justifiable.

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

- That the impugned order dated 28.12.2022 is set aside and the matter is remitted back to the 3rd respondent for reconsideration.
- While reconsidering the same, the aforesaid facts shall be borne in mind by the 3rd respondent and accordingly after having a preliminary enquiry about the title over the property held by the petitioner's vendor and accordingly, if there is no other impediment, the document in question can very well be registered and to that effect, necessary steps shall be taken by the 3rd respondent.

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

03.02.2023

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



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To

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Santhome High Road, Mylapore
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R. SURESH KUMAR, J.

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