



W.P.No.11740 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.12.2023**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.11740 of 2023

G.Thamizhmani

... Petitioner

Versus

1.The Sub Registrar,
Vadalur SRO's Office,
Cuddalore District.

2.R.Suresh Peter

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, call for the records pertaining to impugned order of refusal check slip issued by the 1st respondent in RFL/Vadalur/37/2023 dated at 20.02.2023 refusing to register the Sale Deed dated 15.02.2023 executed in his favour citing civil suit in O.S.No.24 of 2017 on the file of District Munsif, Neyveli and quash the same the same as illegal, arbitrary without jurisdiction and amounts to abdication of statutory duty and further direct the 1st respondent to register the said Sale Deed covered by under impugned order within a time frame.



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For Petitioner : Mr. R. Veeramani
For Respondents : Mr. Yogesh Kannadasan (for R1)
Special Government Pleader
: Mrs. Hema Sampath (for R2)
Senior Advocate,
for Mrs.R.Meenal

ORDER

The petitioner has filed this Writ Petition, challenging the refusal check slip issued by the first respondent in RFL/Vadalur/37/2023 dated 20.02.2023, refusing to register the Sale Deed dated 15.02.2023 executed in his favour, by citing the civil suit in O.S.No.24 of 2017 on the file of District Munsif, Neyveli and quash the same as illegal, arbitrary without jurisdiction and it amounts to abdication of statutory duty and further direct the first respondent to register the said Sale Deed covered by under impugned order within a time frame.

2. Brief facts of the case is that one Rachel Jamuna Kumari purchased property in Tenkuthu Village, Vadalur, but settled in Bengaluru. In her absence, one Suresh Peter a relative and care taker of the said property, unlawfully obtained the Tax receipts in his name and attempted



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to claim ownership through a deceitful injunction suit (O.S. No 24 of 2017). Despite the true owner residing in Bengaluru, an ex-parte decree was obtained by citing a misrepresented address. Upon discovering this fraud, the original seller filed a petition in I.A.No.45 of 2022 in O.S.No. 24 of 2017 to set aside the aforesaid exparte decree dated 11.02.2019 passed by the District Munsif-cum-Judicial Magistrate, Neyveli and the same was granted by order dated 22.11.2022. However, due to the ongoing suit, the Sub-Registrar's, Vadalur has refused to register the sale deed. Hence this writ petition challenging the impugned order.

3. The learned counsel for the petitioner would submit that when the petitioner presented a document for registration, the first respondent/Sub-Registrar passed the impugned order / refusal check slip, dated 20.02.2023 stating that there is a decree obtained in respect of the said suit property. He would further submit that the said decree was already set aside and also placed reliance of the copy of the said setting aside ex-parte decree. Therefore, once the ex-parte decree was set aside, and the original owner of the suit property had only presented the document for registration before the first respondent, therefore, the first



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respondent has no authority to issue the impugned order/refusal check slip by stating the ex-parte decree, which has to be set aside.

4. The learned Senior Counsel appearing for the private respondent would submit that though the ex-party decree was set aside, the suit in O.S.No.24 of 2017 on the file of the District Munsif Court, Neyveli is pending till today. Pending the suit, he cannot execute the sale deed for registration, since the rights of the parties have not been decided in the civil suit. Therefore, the petitioner is not entitled to execute any sale deed or any deeds. Under such circumstances, the petitioner is not entitled to the relief sought for in this Writ Petition.

5. The learned Special Government Pleader appearing for the first respondent has submitted that on a perusal of the impugned order, it would clearly show that the petitioner presented a document for registration, but, it was not registered on the ground that there is an ex-parte decree in respect of the said suit property. Therefore, pending for a decree, the first respondent cannot register the said document. Further, the document produced by the petitioner shows that the ex-parte decree was



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obtained on 11.02.2019 and the same had already been set aside on 22.11.2022. Therefore, while the suit was pending, registering the document, will cause any legal impediment to the first respondent. Therefore, the first respondent issued the impugned refusal check slip to the petitioner. However, the registration of the document can be done only on subject to the outcome of the pending civil suit.

6. Heard the learned counsel for the petitioner, the learned Senior Counsel appearing for the second respondent, the learned Special Government Pleader appearing on behalf of first respondent and perused the materials available on record.

7. Considering the facts and circumstances of the case, this Court in agreement with the submissions of the learned counsel for the petitioner that though the ex-parte decree dated 11.02.2019 was passed in O.S.No.24 of 2017 filed by the second respondent herein, and thereafter, it was set aside on 22.11.2022, and now, the original owner of the property/petitioner has presented the document for registration. Therefore, the first respondent is directed to register the document of the petitioner



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and it is made clear that the petitioner cannot claim any right or title over the registered document until the disposal of the civil suit pending on the file of the District Munsif Neyveli.

8. With the above observations and directions, the Writ petition is allowed. No costs.

21.12.2023

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

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To:

The Sub Registrar,
Vadalur SRO's Office,
Cuddalore District.



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P. VELMURUGAN, J.

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