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W.P.No.23364 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.23364 of 2023

Siva Sakthivel

.. Petitioner

Versus

The Sub-Registrar,
Kammapuram Sub Registrar Office,
Cuddalore District.

.. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the Refusal Check Slip in refusal number RFL/Kammapuram/17/2023 dated 17.02.2023 and to quash the same as illegal and incompetent and consequently direct the respondent to register the settlement deed executed by the petitioner on 17.02.2023.

For Petitioner : Mr.T. Meganathan

For Respondent : Mr.D. Ravichander,
Special Government Pleader



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ORDER

The Refusal Check Slip issued by the respondent returning the document presented by the petitioner for registration is under challenge in the present writ petition.

2.The petitioner states that his family is the absolute owner of the property described in the present writ petition and his father filed second appeal in SA.No.851/954 before the High Court of Madras and the Judgment was also granted in his favour. The petitioner acquired the right through his father and presented a settlement deed for registration. The settlement deed was proposed to be registered in favour of the wife of the petitioner. The document presented by the petitioner, was returned on the ground that the Sub-Registrar is unable to trace the title with reference to the Judgment passed by the High Court in the second appeal. The interpretation offered by the Sub-Registrar in the impugned order is untenable and beyond the scope of his powers conferred under the



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Registration Act. Admittedly, the second appeal was instituted by the father of the writ petitioner Mr.Ramalingam and the Court passed the following orders:

“57.In the result, it is held by this Court that the Appellant/Plaintiff is the owner of the suit properties viz., 1 to 4 items of A schedule properties and the B schedule property and accordingly, the relief of Declaration is granted. Since, the Respondent/1st Defendant was found to be in possession of the suit properties, the Appellant/Plaintiff is not entitled to claim the relief of permanent injunction as prayed for by him in the Plaint, because of the simple reason that the Respondent/1st Defendant's Application in Tr.No.8/86 dated 06.08.1990 claiming cultivating Tenants Rights was pending before the competent authority. Since the question whether the Respondent/1st Defendant was a cultivating Tenant or not was left open by this Court to be decided by the Competent Authority, the order 20 Rule 12 of Civil Procedure Code mesne profit proceedings were also left open. Viewed in that perspective, the Second Appeal is disposed of, leaving the parties to bear their own costs.”



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3.The said order has been further interpreted by the registering authority which becomes unnecessary and beyond the scope of the powers conferred under the Registration Act. Under Rule 55A of the Registration rules, the registering authority is empowered to verify the original document for the purpose of ascertaining the identity of the presenter of a document but he cannot scrutinize the documents for the purpose of adjudication of title. Thus, in the present case the order impugned is perverse and beyond the scope of the provisions of the Registration Act.

4.Accordingly, the impugned Refusal Check Slip issued by the respondent in the proceedings in RFL/Kammapuram/17/2023 dated 17.02.2023 is quashed. The respondent is directed to proceed with the registration by following the procedure as contemplated and complete the same within a period of four weeks from the date of receipt of a copy of this order.



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5. With the above direction, the writ petition stands allowed. No costs.

10.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
cse/veda

To

The Sub-Registrar,
Kammapuram Sub Registrar Office,
Cuddalore District.



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S.M. SUBRAMANIAM, J.

cse/veda

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