



W.P.No.15816 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15816 of 2023

Palanisamy

...Petitioner

Vs.

1.The Sub Registrar
Office of the Sub Registrar,
Dharapuram,
Tiruppur District.

2.Murugasamy

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of order of refusal check slip in Refusal Number RFL/Dharapuram/41/2023 dated 10.05.2023 passed by the 1st respondent herein and quash the same and consequently direct the 1st respondent to register the document of sale deed dated 03.05.2023 presented by the petitioner herein.



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For Petitioner : Mr.N.Manokaran
for Mr.N.Ponraj

For R1 : Mr.E.Sundaram
Government Advocate

For R2 : Mr.N.Srinivasan

ORDER

The refusal cheque slip issued by the 1st respondent in proceedings dated 10.05.2023 is sought to be quashed in the present Writ Petition.

2.It is not in dispute between the parties that a partition suit was instituted between the family members and now Second Appeal in S.A.No.1415 of 2013 is pending before the High Court. In the said Second Appeal, an interim order was passed by this Court on 20.12.2013 staying the passing of the final decree in the original suit in O.S.No.181 of 2010. Admittedly, the preliminary decree for partition passed in the original suit has not been stayed, the passing of final decree alone has been stayed.

3.The writ petitioner presented the sale deed for registration. The registering authority returned the document along with the impugned refusal



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check slip on the ground that the petitioner has not produced the patta copy and further second appeal is pending before the High Court of Madras. The second respondent raised an objection before the registering authority on the ground that the second appeal is pending and the civil rights are yet to be crystallized.

4.The learned Government Advocate appearing on behalf of the first respondent made a submission that the registering authority refused to register mainly on the ground that the second appeal was pending.

5.Pending of a civil litigation is not a bar for registering a document under the provisions of the Registration Act. If at all an interim order has been granted, then alone the registering authority has to refuse the registration based on such interim order. The nature of the interim order granted by the Civil Courts are also to be considered by the registering authority before refusing the registration of a document presented by the presentant.



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6. In the present case, the petitioner presented a sale deed and produced the original title document for verification. Once the original title document has been produced for verification of title, there is no necessity to verify the patta which is only a revenue proceeding to be issued based on the title document. If at all the original has not been produced as raised by the second respondent, the first respondent has to verify the original title document before proceeding with the process of registration.

7. As far as the pendency of second appeal before the High Court is concerned, there is a stay of final decree proceeding and there is no stay for the preliminary decree already passed in the original suit. Once the preliminary decree in a partition suit has been passed, the rights of the parties are crystallized and the demarcation are to be made during the final decree proceedings by appointing an Advocate Commissioner. This being the scope of the interim order, there is no impediment for the first respondent to proceed with the process of registration. It is needless to state that the registration, if any made, would be subject to the result of S.A.No.1415 of 2013. Mere registration of the document by the petitioner



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or any other party cannot be a ground to take any advantage in respect of the merits involved in the second appeal since the petitioner's vendor is also a party.

8.In view of the facts and circumstances, the impugned refusal check slip issued by the first respondent in proceedings RFL/Dharapuram/41/2023 dated 10.05.2023 is quashed and the first respondent is directed to proceed with the registration by following the procedures as contemplated within a period of four weeks from the date of receipt of a copy of this order.

9.Accordingly, the writ petition stands allowed. No costs.

01.09.2023

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



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S.M.SUBRAMANIAM, J.

cse

To

The Sub Registrar
Office of the Sub Registrar,
Dharapuram,
Tiruppur District.

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