



WEB COPY

W.P.No.21728 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21728 of 2023

V.Suganya

... Petitioner

Vs.

The Sub Registrar,
Coimbatore Joint II Sub Registrar Office,
Coimbatore.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the impugned order bearing Refusal Number: RFL/Coimbatore Joint II/ 43 /2023 dated 17.04.2023 and quash the same and consequently direct the respondent to register the Settlement Deed executed by the petitioner dated 17.04.2023.

For Petitioner : Mr.U.Gokulakrishnan

For Respondent : Mr.P.Sanjay Gandhi
Government Advocate.



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ORDER

The impugned Refusal Check Slip issued by the respondent in proceeding dated 17.04.2023 is sought to be quashed in the present writ petition.

2. The petitioner states that her mother bequeathed half share of the subject property in her favour through a Will dated 20.09.2021, which was registered as Document No.156/2021. The petitioner presented a Settlement Deed in respect of the property in the layout formed in the name and style of "Sree Balaji Garden" (LP/DTP No.117/2002). The settlement deed presented by the petitioner was returned on the ground that the petitioner has to secure 'No Objection' from the competent authority under the Town and Country Planning Act.

3. As per the layout formed, the portion of this property sought to be settled under the Settlement Deed was earmarked for the construction of the community hall. As per the layout, the subject property is earmarked for the community hall and thus the said portion of the property belongs to the purchasers of the house site plots in the layout and therefore, the petitioner



cannot settle or alienate the said property without obtaining proper 'No "Objection' from the competent authority under the Town and Country Planning Act. Therefore, in a layout where the portion of the properties are allotted for maintenance of park, school, temple, community halls etc., the said property cannot be alienated by the original owner or settled in favour of any other third person. Such portion of the properties are meant for the usage of all the purchasers of the house cited in the layout.

4. That apart, in all these portions, amenities are to be provided under the provisions of the Town and Country Planning Act. Infrastructural facilities are part and parcel of the layout. The settlement deed presented by the petitioner reveals that the settler has intended to transfer the title in respect of the portion of the property approved for construction of a community hall for the benefit of the residents in the lay out. Therefore, neither the promoter nor the erstwhile owner of the property has the right to alienate the portion of the property, which has been approved as a community hall in the order of approval granted by the Director of Town and Country Planning Act. Thus, the very document presented by the petitioner for settling the property is in violation of the provisions of the



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Town and Country Planning Act and thus, the registering authority has rightly refused to register the document under Section 22(A)(2) of the Registration Act.

5. Such properties allotted for providing amenities under the provisions of the Town and Country Planning Act cannot be alienated nor be transferred or settled in favour of any third party. Thus, this Court do not find any infirmity in respect of the impugned order passed by the respondent.

6. Accordingly, this Writ petition is **dismissed**. No costs.

09.08.2023

Index : yes
Speaking order
Neutral Citation: yes

mjs/sha

To

The Sub Registrar,
Coimbatore Joint II Sub Registrar Office,
Coimbatore.



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S.M.SUBRAMANIAM, J.

(mjs / sha)

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