



W.P.No.20817 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20817 of 2023

A.Sakthivelu

... Petitioner

Vs.

The Sub Registrar,
Attur,
Salem District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings dated 31.01.2023 passed in Na.Ka.No.28 of 2023 on the respondent quash the same consequently directing the respondent to register the Sale Deed dated 10.01.2023.

For Petitioner

: Mr.R.Ezhilarasan

For Respondent

: Mr.D.Ravichander
Special Government Pleader



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ORDER

The order of refusal issued by the Sub Registrar refusing to register the document presented by the writ petitioner is under challenge in the present writ petition.

2. The petitioner states that he holds right in respect of the subject property more fully described in the present writ petition. The petitioner through his vendor presented a sale deed for registration. Required stamp duty and registration fees were also paid. However, the Registering Authority returned the document along with the impugned order dated 31.01.2023 stating that the encumbrance of the documents were registered by one Mr.Muthu Gounder i.e., Gift settlement deed in favour of his wife in Document No.3778 of 2018 and Sale Deed in Document No.894 of 2016 was executed by Subordinate Judge, Attur. As per the encumbrance the last document was registered in the name of the Mr.Govindaraj and therefore, the petitioner is not possessing marketable title for the purpose of registering the same.



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3. The Registering Authority / Sub Registrar is not empowered to adjudicate the title, ownership or the disputed facts between the parties, which all are in civil nature. The Registering Authority is bound to act within the provisions of the Registration Act for refusal of documents presented otherwise in accordance with the procedures contemplated. If at all any of the procedures contemplated under the Act or Rules has not been adopted, then alone the documents are to be returned and the Sub Registrar is incompetent to adjudicate the nature of title or other civil disputes. In other words Sub Registrar cannot act as a Civil Court in determining the Civil Rights of the parties.

4. In the present case, the Sub Registrar has exceeded his jurisdiction and made a finding that the vendor to the petitioner has no title to sell the property. If at all there is a doubt, it is for the parties to approach the Competent Civil Court of Law. However, in the present case, the vendor and the purchaser presented the document for registration and therefore, the registering authority has no option, but to register the same, by following the procedures as contemplated. Thus, this Court is of the considered opinion that order impugned is beyond the jurisdiction of the Registering Authority and



cannot be sustained.

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5. Accordingly, the impugned proceedings dated 31.01.2023 passed in Na.Ka.No.28 of 2023 is quashed. The respondent / Sub Registrar is directed to proceed with the registration by following the procedures as contemplated. The said exercise is to be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ petition stands allowed. No costs.

14.07.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To

The Sub Registrar,
Attur,
Salem District.



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S.M.SUBRAMANIAM, J.

Jeni

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