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W.P.No.23238 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23238 of 2023

Aathimoolam

... Petitioner

Vs.

1.The District Registrar,
Kallakurichi.

2.The Joint II Sub-Registrar,
Kallakurichi.

... Respondents

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 2nd respondent in proceedings RFL / 2 No.Joint Registrar, Kallakurichi / 41 / 2023 dated 20.06.2023, quash the same and consequently direct the 2nd respondent to accept the Petitioner's settlement deed executed in his son Sakthivel's favour with respect to his property bearing S. No. 119/1F2. 123/ 2A1 and 123/ 2C1 in



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Kallakurichi Village and T.K., Kallakurichi District admeasuring 0.18 Cents.

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For Petitioner : Mr.S.N.Subramani

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

ORDER

The impugned Refusal Check Slip dated 20.06.2023 issued by the 2nd respondent is under challenge in the present writ petition.

2. The petitioner states that he is the absolute owner of the subject property described in the present writ petition and in possession and enjoyment of the subject property. The petitioner entered into a Sale Agreement with one Chelladurai S/o Natesan Pillai vide Document No.1482 of 2004 registered on the file of the Joint II Sub Registrar, Kallakurichi. The period of Sale Agreement was one month. The purchaser had failed to pay the balance sale consideration as per the agreement and therefore, Sale Deed was not executed. The advance amount of Rs.50,000/- was forfeited as per the conditions in the Sale Agreement. The Sale Agreement admittedly was registered in the year 2004 and



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the period of limitation for institution of the Suit i.e., 3 years has also been lapsed.

3. The petitioner has now presented a Settlement Deed for registration on 20.06.2023. The Sub-Registrar returned the document on the ground that the Sale Agreement registered on the file of the Document No.1482 of 2004 is not removed from the encumbrance and therefore, the Settlement Deed cannot be registered.

4. With reference to the reasons stated in the impugned order, it is relevant to consider Rule 55-A(i) proviso, which stipulates that “in case an encumbrance has been mortgaged, orders on attachment of property, sale agreement or lease agreement exist over the property, the registering officer shall not register such documents if the time limit of filing of Suit is not lapsed or no objection certification is not granted by the appropriate authority or raising of the attachment is not done as the case may be.”



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5. In the present case, even as per the impugned order, the Sale Agreement was registered vide Document No.1482 of 2004 and the period of limitation of three (3) years as per Article 54 of the Limitation Act has lapsed in the year 2007 itself. Therefore, there is no infirmity for registering authority to register the Settlement Deed presented by the writ petitioner.

6. In view of the facts and circumstances, the impugned Refusal Check Slip dated 20.06.2023 issued by the 3rd respondent in Proceedings RFL / 2 No.Joint Registrar, Kallakurichi / 41 / 2023 is quashed and the respondents are directed to proceed with the registration and complete the said exercise within a period of four (4) weeks from the date of receipt of a copy of this order.

7. The Registry, High Court is directed to return the original impugned order along with the Settlement Deed to the Learned Counsel for the petitioner on record, enabling the petitioner to represent the same before the registering authority.



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

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skr

Index : Yes

Speaking order

Neutral Citation : Yes

Note: *Registry, High Court is directed to return the original impugned order along with the Settlement Deed to the Learned Counsel for the petitioner on record*

To

- 1.The District Registrar,
Kallakurichi.
- 2.The Joint II Sub-Registrar,
Kallakurichi.



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S.M.SUBRAMANIAM, J.

skr

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