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W.P.No.24154 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P No.24154 of 2023

Nallasamy

...Petitioner

Vs.

1.The District Registrar,
Office of District Registrar,
Rangampalayam, Erode - 638009.

2.The Sub-Registrar,
Bhavani,
Erode District-636 455.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in Check slip dated 08.12.2022 in RFL/Bhavani/131/2022 by the 2nd Respondent, quash the same and consequently direct the 2nd Respondent to register the Settlement Deed dated 07.12.2022.

For Petitioner : Mr.V.Anandhamoorthy

For Respondents : Mr.G.Krishnaraja
Additional Government Pleader



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ORDER

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The Check Slip dated 08.12.2022 in RFL/Bhavani/131/2022, issued by the 2nd Respondent is under challenge in the present writ petition.

2. The petitioner states that he has presented a settlement deed for registration before the 2nd respondent and the 2nd respondent returned the document along with impugned refusal check slip on the ground that the petitioner has not obtained permission from the planning authority in compliance with Sub Section 22-A(2) of the Registration Act. Accordingly, an instrument relating to the transfer of ownership to land converted as house sites, without the permission for development of such land from planning authority, is to be refused for registration.

3. In view of the amendment, an insertion of Section 22-A(2) of the Registration Act, permission have been obtained from the planning authority becomes mandatory even for a single house site. The very purpose and object of the amended act is to ensure that house sites are regulated and permission has been obtained from the planning authority. Therefore, whether the lands converted or existing house sites is proposed to be transferred for immediate construction of building or for future construction, a permission from the planning authority is necessary for the purpose of registering the documents. Presentant of a document cannot say that he has not



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proposed to construct any building immediately. Such contentions ought to be rejected in view of the fact that construction of a building is immaterial and one can decide to construct a building even in future. What is required is a permission from the planning authority, if the registering authority is of an opinion that the land proposed to be transferred through registration is a house site or it is a residential locality.

4. In the present case, the learned Counsel for the petitioner states that there is a house constructed in the land long back and at the time of construction of a house, no such permission was obtained and now the petitioner has proposed to settle the property and therefore, there is no reason what so ever to insist upon the petitioner to secure permission from the planning authority. In support of the said contention, learned counsel for the petitioner relied on the clarification issued by Inspector General of Registration in Letter.No.359/J2/2020-1 dated 16.03.2020. Such clarifications issued by the Inspector General of Registration, with reference to the particular facts or the query asked cannot be equated with the provisions of the act or the rules framed there under.

5. In the present case, Section 22-A(2) of the Act is unambiguous and permission from the planning authority becomes mandatory after the amended



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provision. The principles in this regard are considered by this Court in

W.P.No.22655 of 2023 dated 02.08.2023. Therefore, the petitioner has to obtain permission from the planning authority for the purpose of settling or transferring the property.

6. In view of the facts and circumstances, the petitioner is at liberty to submit an appropriate application before the competent authority for getting permission /approval from the planning authority and on issuance of such approval, the documents may be represented for registration. In such circumstances, the Registrar shall proceed with the registration by following the procedures as contemplated under the Registration Act.

7. With these clarifications, the Writ petition stands **disposed of**. No costs.

sha/gvn

17.08.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

To

1.The District Registrar,
Office of District Registrar,

<https://www.mhc.tn.gov.in/judis>

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Rangampalayam, Erode - 638009.

2. The Sub-Registrar,
Bhavani,
Erode District-636 455.



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S.M.SUBRAMANIAM, J.
sha

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