



WEB COPY

W.P.No.24346 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24346 of 2023

T.Subramani

... Petitioner

Vs.

1.The Sub-Registrar,
Punchaipuliyampatti,
Erode District.

2. N. Somasundaram

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to call for the entire records relating to the Impugned Refusal Check Slip dated 27.07.2023 in RFL/Punchaipuliyampatti/14/2023 on the file of the 1st respondent herein and consequently direct the 1st respondent to register the Sale Deed dated 27.07.2023 presented by the petitioner herein.

For Petitioner

: Mr.L.Mouli

For R1

: Mr.D.Ravichander,
Special Government Pleader.



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ORDER

The impugned Refusal Check Slip dated 27.07.2023 is under challenge in the present writ petition.

2. The petitioner states that he is the absolute owner of the agricultural land to an extent of 0.96 $\frac{3}{4}$ acres including $\frac{1}{4}$ share in 'Well' and as well the Bore Well with electric motor pump set in S.F.No.54/2A and 54/1A in Alathur Village, Avinashi Taluk, Tiruppur District. The petitioner appointed one Mr. K.R. Prabhakaran, as his Power of Attorney, since he had to travel outside for business purposes. The said Power of Attorney registered the sale agreement dated 29.07.2016 in favour of the 2nd respondent in Document No. 3905 of 2016. The petitioner came to know about the sham and nominal document. When he attempted to contact the Power of Attorney, he avoided to meet the him. The petitioner had thereafter executed a deed cancelling the Power of Attorney dated 19.07.2023 in Document No.5225 of 2023, and the cancellation of Power of Attorney dated 04.08.2010 in Document No.374 of 2010.

3. The learned counsel for the petitioner has made a submission that



based on the registered sale agreement no Civil Suit was instituted for the past about seven years. The petitioner presented a sale deed dated 27.07.2023 in favour of one S. Thamilselvi wife of Mr.Sampath Kumar and the said document has been returned by the Registering Authority along with the Refusal Check Slip on the ground that the sale agreement was entered in the Encumbrance registration. Mere registration of sale agreement in the year 2016 would not be a ground to refuse the registration of Sale Deed, which is now presented after a lapse of seven years from the date of registration of Sale Agreement.

4. In this context, the Rule 55-A of the Registration Rules states that

'Provided that in case an encumbrance as to mortgage, orders on attachment of property, sale agreement or lease agreement exists over the property, the registering officer shall not register such document if the time limit for filing of suit is not lapsed or No Objection Certificate is not granted by the appropriate authority or raising of the attachment is not done, as the case may be.'

5. In the present case, the limitation period of three years has already



been lapsed. Thus, there is no impediment for the petitioner to execute the sale deed in favour of another party. Thus, the Refusal Check Slip issued by the Registering Authority is not in consonance with the rule 55-A of the Registration Rules.

6. Accordingly, the impugned Refusal Check Slip passed by the 1st respondent in proceedings No. RFL/Punchaipuliyampatti/14/2023 dated 27.07.2023 is quashed and the 1st respondent is directed to proceed with the registration by following the procedures and complete the same within a period of four (4) weeks from the date of receipt of a copy of this order.

7. With these directions, the Writ Petition stands allowed. No costs.

18.08.2023

veda/jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

The Sub-Registrar,
Punchaipuliyampatti,
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S.M.SUBRAMANIAM, J.

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