



W.P.No.30220 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.30220 of 2023

V.Varadarajan

... Petitioner

versus

1. The Sub Registrar
Periyanaickenpalayam
Coimbatore 641 020
2. The Inspector General of Registration
Santhome High Road
Chennai 600 004

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Refusal Check Slip issued by the Respondent No.1 dated 16.09.2023 in Refusal No.RFL/Periyanaicken Palayam/104/2023, quash the same in so far as it requires the No Objection Certificate from the lessees of properties as a pre-condition to transfer of properties by lawful owners in favour of third parties and consequently direct the 1st Respondent to register the Deed of Settlement dated 16.09.2023 executed by the Petitioner in favour of his son R.V.Prabhu without insisting on any No Objection Certificate form the lessee of the property.



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For Petitioner : Mr.P.K.Rajagopal
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed challenging the Refusal Check Slip issued by the Respondent No.1 dated 16.09.2023 in Refusal No.RFL/Periyanaicken Palayam/104/2023.

2. The case of the petitioner is that he is the owner of the land measuring 40 cents and 434 Sq.ft or 17858 Sa.ft. and a building comprised in Survey No.97/2, Kurudampalayam Village, Coimbatore North Taluk, Coimbatore District. The petitioner acquired the land through a registered sale deed dated 14.12.2004 vide document No.8216 of 2004 on the file of Sub-Registrar, Periyanaicken Palayam and another sale deed dated 25.01.2005 registered as Document No.446 of 2005 on the file of Sub-Registrar, periyanaicken Palayam and also by another sale deed dated 25.02.2005 registered as Document No.1540 of 2005 again on the file of the same Sub-Registrar. The patta was also granted in Joint Patta No.4926 in the year 2005. The petitioner let out the property for lease to M/s.Reliance

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Industries Limited and the lease is effective till 23.02.2025. While so, considering his old age, the petitioner wants to settle his properties and therefore, the petitioner approached the 1st respondent along with title deeds, patta, Encumbrance certificate and necessary fees for registration. The 1st respondent on perusal of the deed to be registered and documents produced along with it, refused to register the deed of settlement presented and had issued a Refusal Check Slip. Challenging the said impugned refusal check slip, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that the petitioner is the owner of the property and he wanted to settle his property in favour of his son. When the petitioner presented the documents for registration before the 1st respondent, the 1st respondent has passed the impugned refusal of the slip stating that there is a lease entry in the year 2005, which is still pending and therefore, directed the person who presented the document to get the No objection certificate from the lessee, which is illegal and arbitrary. Aggrieved by the impugned refusal check slip, the petitioner has approached this Court.



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4. First Proviso to Rule 55A (1) of the Rules has been struck down and also the 1st respondent has no authority to insist the settler, who presented the document for registration to get the No objection certificate from the lessee and it is the matter between the lessee and lessor, even otherwise, if any document is created, it is subject to the lease and even if settler settles the property in favour of the 3rd party, right of the lessee will not take away. The respondent has nothing to do with the same and therefore, under such circumstances, since First Proviso to Section 55A (1) has already been struck down, the reason stated in the refusal check slip insisting the 1st respondent to get the No objection certificate from the lessee is unwarranted and therefore, the refusal check slip issued by the 1st respondent is set-aside and the 1st respondent is directed to receive the document and register the same if it is otherwise in order within the purview of Registration Act.



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5. With the above directions, this writ petition stands allowed.

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Speaking/Non-speaking order

Index: Yes/No

Neutral Citation : Yes/No

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To

1. The Sub Registrar

Periyanaickenpalayam

Coimbatore 641 020

2. The Inspector General of Registration

Santhome High Road

Chennai 600 004



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