



W.P.No.34243 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34243 of 2023

S.V.Duraisamy

... Petitioner

versus

1. The Sub Registrar,
Achirapakkam SRO,
Chengalpattu District.

2.S.Hakeem Raja

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Refusal Check Slip in RFL/Achirapakkam/259/2023 dated 24.11.2023 issued by the first respondent herein, quash the same and consequently, direct the respondent to register the Sale Deed dated 24.11.2023 presented by the petitioner proposed to sell the property situated at No.125, Agili Village, Madurantakam Taluk, Chengalpattu District comprised in S.No.261/1 New No.261/1A1 and Survey No.261/2A New Survey No.261/2A1, release the same forthwith.

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Survey No.261/2A1 situated at No.125, Agili Village, Madurantakam Taluk, Chengalpattu District vide registered Sale Deed in Document No.15/2006 on the file of the Sub Registrar Office, Achirapakkam from one D.Narayanan and others. Subsequently, Revenue Records were mutated and Patta No.345 stood in the name of the petitioner. While so, the petitioner approached the second respondent to develop the subject property into house-sites, for which, an unregistered sale agreement has been entered between them. Subsequently, the second respondent after getting money from the petitioner, obtained approval from the Director of Town and Country Planning, Chengalpattu in the year 2017 in DTCP NO.53/2014 and developed the properties into house-sites in the name and style of "Senthamizh Nagar". Since the second respondent taken steps for the development of the above property, the original approval order and lay out are with the second respondent. Subsequently, a dispute arose between the petitioner and the second respondent regarding the registration of house-sites, and hence, they set apart. Thereafter, the petitioner settled certain house-sites in favour of his children by way of registered Settlement Deeds, vide Doc.Nos.5137/2019, 5138/2019, 5140/2019 on the file of the first respondent. The said



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Settlement Deeds were registered by enclosing a copy of the DTCP approval order and lay out.

4. Further case of the petitioner is that the second respondent had instituted a suit in O.S.No.86/2020 on the file of the District Munsif, Madurantakam, in which, interlocutory applications have been filed seeking interim injunction against the petitioner not to alienate the properties and not to disturb the possession of the second respondent and the said interlocutory applications were allowed on 23.04.2022, which was challenged by the petitioner in C.M.A.Nos.2 and 3 of 2022 on the file of the Sub Judge, Madurantakam and the same was allowed. Thereafter, based on the Settlement Deed, the petitioner's son sold certain plots to third parties. While so, the petitioner presented a Sale Deed, dated 24.11.2023 before the Sub Registrar/first respondent herein for registration. However, the first respondent refused to register the Sale Deed and issued impugned refusal check slip for non-production of regularization order issued by the Block Development Officer and original DTCP approval copy. Aggrieved by the said impugned refusal check slip, the present Writ Petition has been filed.



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5. Heard both sides and perused the materials available on record.

6. It is seen from the records that the petitioner has not filed the regularization order issued by the Block Development Officer and original DTCP approval copy, the first respondent refused to register the said Sale Deed and returned the same directing the petitioner to re-present the document along with original documents. It is contended by the learned counsel for the petitioner that since there was dispute between the petitioner and the second respondent, he is not able to get the original documents from the second respondent and therefore, the petitioner submitted a copy of the documents before the first respondent, but the first respondent refused to accept the same.

7. In the facts and circumstances, it is useful to extract Rule 55-A(i) of the Registration Rules, which reads as follows:

"Rule 55-A(i):

The registering officer before whom a document relating to immovable property is presented for registration, shall not register the



same, unless the presentant produces the previous original deed by which the executant acquired right over the subject property and an Encumbrance Certificate pertaining to the property obtained within ten days from the date of presentation:

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:

Provided further that in case the previous original deed is not available as the property being an ancestral one, the registering officer shall not register such document, unless the presentant produce any revenue record evidencing the executant's right over the subject property such as patta copy issued by Revenue Department or tax receipt:

Provided also that if the previous original deed is lost, the registering officer shall register such document only on production of non-traceable Certificate-issued by the Police department along with the advertisement published in the local Newspaper as to the notice of loss of the previous original deed:

Provided also that production of the previous original Deed shall not be necessary where the Government or a Statutory body is the executant of the document or for such class of documents as may be notified by the Inspector General of Registration, from time to time."



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8. Rule 55(A)(i) of the Registration Rules, clearly shows that the registering officer before whom documents relating to immovable property are presented for registration, the presentant has to produce the original deed and relevant documents, by which, the executant acquired right over the subject property. If they are not able to produce the same, they have to comply with the Proviso II to IV to Rule 55(A)(i) of the Registration Rules as the case may be.

9. Admittedly, in the present case, the petitioner himself admitted that he has not produced the original documents at the time of registration, since the original documents are with the second respondent. The petitioner has not produced the original documents to prove his right over the property and the petitioner has also not followed and complied with the proviso II to IV to Rule 55A(i) of the Registration Rules in the manner known to law and therefore, this Court does not find any perversity or infirmity in the impugned refusal order passed by the first respondent.

10. In view of the above, this Court does not find any merits in this



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Writ Petition and hence, this Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law.

There shall be no order as to costs.

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Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

The Sub Registrar,
Achirapakkam SRO,
Chengalpattu District.

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P.VELMURUGAN, J.

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