



W.P(MD)No.147 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

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THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.147 of 2023

and

W.M.P(MD)No.136 of 2023

A.Raja

... Petitioner

Vs.

1.The District Registrar,
(Periyakulam Incharge, Administration),
Theni District,
Theni.

2.The Sub-Registrar,
Thevaram,
Uthamapalayam Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the first respondent vide his proceedings in செ.மு.ஆ.எண்.5405/ஆ.1/2022, dated 14.12.2022 and set aside the same and consequently direct the second respondent to register the Release Deed, dated 12.04.2022, in respect of the property vide patta No.5225 situated in Survey No.3004/8 and 3059/2B2 at Kombai (East) Village, Uthamapalayam Taluk, Theni District within a stipulated period as prescribed by this Court.



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For Petitioner : Mr.S.Balaji

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader

ORDER

Heard the learned Counsel on either side.

2. The petition mentioned release deed was presented for registration by the impugned proceedings. The second respondent vide refusal check slip dated 12.04.2022 returned the document. Challenging the same, the petitioner filed an appeal before the first respondent. The first respondent vide proceedings dated 14.12.2022 confirmed the stand taken by the Registering Authority. Challenging the said proceedings, the present writ petition came to be filed.

3. The learned Counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. He pointed out that the land in question has been classified as agricultural lands and that they have not been plotted out or sold in favour of third parties housing plots. A learned Judge of this Court vide order dated 20.04.2021 in W.P(MD)No.259 of 2021 in paragraph Nos.8 & 9 has held as follows:

"8. In the considered view of this Court, the above said Rules were brought into force only to curb the menace of unapproved



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layouts all over the State of Tamil Nadu. This was done in order to protect the interest of the innocent purchasers, who buy this unapproved plots and ultimately suffer even without basic infrastructure facilities. The Registration Act read with this Rules completely bars registration of any unapproved plot. It must be borne in mind that the said bar will operate only where the owner of the property wants to deal with the property as an unapproved plot. This bar will not apply where the owner of the property wants to deal with the property in its original form. In the present case, the petitioner wants to deal with the property as a punja land and not as a plot.

9. If the petitioner is prevented from dealing with the property as a punja land, it will be directly in violation of Article 300A of the Constitution of India. The bar that is imposed for registration for unapproved plots cannot be extended to prevent the owner of the property from dealing with the property in its original form. Therefore, once the petitioner has decided that the property is not going to be dealt with as an unapproved plot and it is going to be dealt with only as a punja land, this Court does not find any bar in the second respondent entertaining the document for registration."

4. No doubt the aforesaid decision is in favour of the writ petitioner. But the facts obtaining on ground cannot be lost sight of. In the petition mentioned release deed, the petitioner herein has been allotted 4 ½ cents of land. I fail to



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understand as to what kind of agricultural operations can be carried on in 4 ½ cents of land. It is not in dispute that the petition mentioned land is a part of an unapproved layout. Section 22A of the Registration Act, 1908 reads as under:

"22-A. Refusal to register certain documents .— Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:— (1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,—

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or

(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995, unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such



authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site."

4. The policy of the Government is that unapproved layouts cannot be allowed to be promoted. Plots which are part of such unapproved layouts cannot be sold or registered. If the registering authority unmindful of the statutory prohibition entertains a document and register the same, he is even liable for prosecution. At the same time, a balance can be struck between the decision relied on by the learned Counsel appearing for the writ petitioner and the statutory prohibition. The learned Counsel for the petitioner states that a recital to the effect that the schedule property will not be sold in favour of third parties without getting prior approval from the competent authority will be incorporated. The petitioner is permitted to re-present the petition mentioned document after adding the recital mentioned above. Thereupon, the second respondent shall receive the same, register it and release it subject to the



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fulfillment of other usual formalities.

5. This writ petition stands disposed of with the aforesaid direction.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

30.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

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