



W.P(MD)No.5036 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5036 of 2023
and
W.M.P(MD)No.4706 of 2023

Kannathasan

... Petitioner

Vs.

- 1.The District Registrar,
Office of District Registrar,
Madurai District.
- 2.The Sub Registrar,
Othakadai Sub-Registrar Office,
Othakadai,
Madurai.
- 3.The Sub-Registrar,
Joint 1, Madurai North,
Rajakambeeram,
Y.Othakadai,
Madurai.



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4.The President,
Othakadai Panchayath,
Othakadai,
Madurai.

5.The President,
Neelamegam Nagar House Owners Association,
Neelamegam Nagar,
Y.Othakadai,
Madurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip passed by the second respondent in RFL/Othakadai/6/2022 dated 19.12.2022 and quash the same as illegal and consequently direct the third respondent to register the said sale agreement dated 19.12.2022 and consequently direct the fourth respondent keep away from the petitioner's property without disturbing his enjoyment.

For Petitioner : Mr.S.Kanagarajan

For R1 to R3 : Mr.M.Prakash
Additional Government Pleader



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ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to the refusal check slip passed by the second respondent/Sub Registrar, Othakadai at Madurai in RFL/Othakadai/6/2022 dated 19.12.2022 and interfere with the same and consequently direct the third respondent/Sub-Registrar, Joint 1, Madurai North, Madurai to register the agreement of sale dated 19.12.2022 and to further direct the fourth respondent, namely, the President, Othakadai Panchayat at Madurai to stay away from the said property without disturbing the petitioner's enjoyment.

2. The petitioner claims that he is the owner of the property at Neelamegam Nagar, Y.Othakadai, Madurai in S.No.70/1, now S.No. 70/5, 70/6, which are categorised as Plot Nos.92-A and 92-B with total measurement of 5012.5 sqft. He had purchased the property from one Meenakshi, W/o.Kumarapan vide Document Number 7004 of 2011 on 30.11.2011 registered in the office of the second respondent/The Sub-Registrar, Othakadai Sub-Registrar Office, Othakadai at Madurai.



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3. The petitioner claims that he had also obtained sub-division of patta in Patta No.1473 from the Tahsildar, Madurai East Taluk.

4. The petitioner claims that now he wants to execute the agreement of sale before the second respondent with respect to the same property. However, the second respondent, Sub-Registrar, Othakadai had refused to register the same and issued a refusal check slip, which is complained of in the present the writ petition.

5. In the check slip, the reasons for refusal to register had been given and it had been stated that in the lay out Plot Nos.1 to 92 alone could be sold and the remaining areas were reserved for common purpose, like Play ground, Community hall. The land which is now agreed to be sold by the petitioner had been reserved for community hall.

6. The learned counsel for the petitioner states that the petitioner had entered into an agreement of sale and the intending purchaser wants to build a community hall in that place.



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7. The Neelamegam Nagar Housing Owners Association had earlier filed a writ petition in W.P(MD)No.218 of 2012 stating that one Thiru.K.Annamalai, after forming a lay-out had submitted an application for statutory approval. There were 100 plots with park, play-ground, community hall, library, place of worship and shopping complex. The said plots were sold to various individuals. This Court, on 29.03.2012, directed the respondents 3 & 4 to initiate appropriate proceedings to restore the plots reserved for library, community hall, pathway and park by issuing notice to the people, who are now in possession and enjoyment of the property. The second respondent was directed to issue notice to the pattadhars and cancel the patta, in case, it is made out that they have purchased the sites reserved for common purpose.

8. Therefore, the very purchase of the petitioner in Plot Nos. 92-A and 92-B is per se illegal in the light of the order which was ultimately passed in W.P(MD)No.218 of 2012. The learned Single Judge after examining the entire aspects, has observed as follows:-

“13. The statutory authorities cannot be permitted to act as a mute spectator in a matter like this. They should



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come to the aid of people. The local Panchayat should have maintained the common facilities. The failure on the part of Madurai East Panchayat Union and Y-Othakadai Panchayat alone contributed for this sorry state of affairs. Therefore, at least, now they should act in the interest of general public.

14. Accordingly, the third and fourth respondents are directed to initiate appropriate proceedings to restore the plots reserved for library, community hall, pathway and park by issuing notice to the people, who are now in possession and enjoyment of the property. The second respondent is directed to issue notice to the pattadars and cancel the patta, in case it is made out that they have purchased the sites reserved for common purpose. The third and fourth respondents should ensure that sufficient opportunity is given to the people, who are now in possession and enjoyment of the community sites. The action regarding restoration of these amenities should be completed, within a period of seven months from the date of receipt or production of a copy of this order.”

9. It had been very clearly stated that the plots which had been reserved for library, community hall, pathway and other common usage should be cancelled and possession should be re-taken. It is thus



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seen that the petitioner had no right to enter into an agreement of sale of plots reserved for construction of community hall. The refusal check slip issued by the respondent is in order.

10. In view of the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2023

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

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To

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Office of District Registrar,
Madurai District.

2.The Sub Registrar,
Othakadai Sub-Registrar Office,
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C.V.KARTHIKEYAN, J.

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