



W.P.(MD)No.8757 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8757 of 2021

S.Padmanabhan

... Petitioner

Vs.

The Sub Registrar,
Joint I Sub Registrar Office,
Cheranmahadevi,
Tirunelveli District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent vide RFL/1 No Joint Sub-Registrar, Cheranmahadevi/2/2021 dated 02-03-2021 and quash the same and further directing the respondent to register the sale deed dated 03-03-2020 executed by the petitioner which is relating to Ayan Nanja land in Survey No.32/1 admeasuring 0.19.00 Hec situated at Melaseval Part I Village, Cheranmahadevi Taluk, Tirunelveli District.



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For Petitioner : Mr.T.Selvam

For Respondent : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip of the respondent dated 02.03.2021 and for a further direction to the respondent to register the sale deed dated 03.03.2020 executed by the petitioner in his capacity as the agent of one Balasubramanian in favour of one Sivanandhan.

2. The case of the petitioner is that the above said Balasubramanian is the owner of the subject property in Survey No.32/1 measuring an extent of 47 cents by virtue of a registered sale deed dated 28.04.1995 registered as Document No.172 / 1995. The said Balasubramanian executed a power of attorney in favour of the petitioner and based on the same, the petitioner executed a sale deed in favour of one Sivanandhan dated 03.03.2020. When this document was presented for registration before the respondent, it was returned through a refusal check slip dated 02.03.2021 on the ground that there is already an earlier entry found in the Encumbrance Certificate by virtue of a Document No.139 of



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2001, wherein, an extent of 27 cents out of 47 cents has already been dealt with. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Heard the learned counsel on either side.

4. In the instant Writ Petition there is a fundamental flaw in terms of the status of the petitioner. The petitioner has filed the Writ Petition in his individual capacity and whereas, the petitioner is only an agent of one Balasubramanian, who is the actual owner of the property. Hence, the very presentation of this Writ Petition is un-sustainable.

5. Apart from the above, the same property has been dealt with on 02.05.2001 to an extent of 27 cents and the document was registered on 03.05.2001 as Document No.139 of 2001. Whereas by virtue of the sale deed dated 03.03.2020, an attempt is being made to deal with the entire extent of 47 cents. It is under these circumstances, the refusal check slip was issued by the respondent.



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6. In the considered view of this Court, there is no ground to interfere with the refusal check slip issued by the respondent. There was already a document executed in the year 2001 and by virtue of that document, 27 cents out of the total extent of 47 cents has been dealt with. It is not necessary for this Court or for the respondent to go into the issue as to whether those parties could have dealt with 27 cents in the subject property. It is something to be questioned by the original owner of the property. What is necessary is to see that by virtue of the sale deed dated 03.03.2020, the entire extent of 47 cents was attempted to be dealt with. Whereas, there is an entry available in the Encumbrance Certificate to an extent of 27 cents. Without any clarity or an order passed by a competent Court, the respondent cannot mechanically once again entertain a document for the entire 47 cents. If at all, a document can be entertained, it can only be for an extent of balance 20 cents.

7. In the light of the above discussion, this Writ Court does not find any merits in this Writ Petition and accordingly, the same is dismissed. It will be left open to the owner of the property to challenge the



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earlier document that was registered on 03.05.2001 through Document No.

139 of 2001 in the manner known to law. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To
The Sub Registrar,
Joint I Sub Registrar Office,
Cheranmahadevi,
Tirunelveli District.



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N.ANAND VENKATESH, J

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