



W.P.(MD)No.15634 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.15634 of 2021
and
W.M.P.(MD).No.12591 of 2021

1.Abdul Sherin

2.P.Mariappan

... Petitioners

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The District Registrar,
Cheranmahadevi,
Tirunelveli District.

3.The Sub Registrar,
Ambasamudram,
Tirunelveli District.

... Respondents

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 refusal check slip in RFL/Ambasamudram/7/2021 dated



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15.03.2021 passed by the third respondents and quash the same and consequentially directing him to register the sale deed dated 26.02.2021 executed by the second petitioner in favour of the first petitioner in respect of the property measuring 79.65 square meters with building bearing Door No.33A, Ayyanarkulam North Street, Ambasamudram in Old Natham Survey No.229/1A1, New Natham Survey No.670/26, Ambasamudram Village, Tirunelveli District within a time frame that may be fixed by this Court.

For Petitioners : Mr.J.Barathan

For Respondents : Mr.Ragavendran
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip issued by the third respondent dated 15.03.2021 and for a consequential direction to the third respondent to register the sale deed dated 26.02.2021 executed by the second petitioner in favour of the first petitioner with respect to the subject property and to release the said document.

2. Heard the learned counsel appearing on behalf of the petitioners and the learned Government Advocate appearing on behalf of the respondents.



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3. The case of the petitioners is that the second petitioner is the absolute owner of the subject property by virtue of a registered release deed dated 17.02.2012. The further case of the petitioners is that pursuant to the release deed, the property tax was also assessed in the name of the second petitioner and joint patta was also issued for the entire property. The second petitioner executed a sale deed in favour of the first petitioner on 26.02.2021. When the sale deed was presented for registration, the third respondent refused to register the sale deed and issued the impugned refusal check slip dated 15.03.2021. In the refusal check slip, it was stated that the second petitioner did not produce the certificate from the Tahsildar for having surveyed the property and measured the extent. The second reason that was assigned is that the patta that was granted in favour of the second petitioner was also not produced. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The learned counsel for the petitioners submitted that the property was measured and a certificate was also issued by the Village Administrative Officer on 24.02.2021 and this was also countersigned by the Deputy Tahsildar, Ambasamudram on 25.02.2021. Therefore, it was contended that the property was measured and proper certificate was also issued. Insofar as the second



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ground that was raised in the refusal check slip, the learned counsel brought to the notice of this Court the Adangal extract pertaining to the subject property and pointed out that the patta number has been mentioned as 3761 and it stands in the name of Chinnamal, Ali and the second petitioner. In view of the same, the learned counsel submitted that both the requirements are satisfied and there is no reason for the third respondent to refuse to register the sale deed presented for registration.

5. The learned Government Advocate appearing on behalf of the respondents produced the written instructions received from the third respondent. On going through the same, it is seen that a suit has been filed in O.S.No.28 of 2021 before the District Munsif Court, Ambasamudram and in this suit, the Sub-Registrar was also made as a party. According to the plaintiff in this suit, the second petitioner was attempting to deal with the common pathway and sell the same also to the first petitioner. Accordingly, necessary reliefs have also been claimed in this suit. The learned Government Advocate therefore submitted that the third respondent did not register the document in view of the pendency of the suit also.



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6. In the considered view of this Court, two reasons that were assigned in the impugned refusal check slip issued by the third respondent, has been properly explained and the relevant documents were also placed before this Court. Hence, it will be appropriate to direct the third respondent to take note of the certificate issued by the Village Administrative Officer which was countersigned by the Deputy Tahsildar for measuring the property and also the Adangal extract which shows that the name of the second petitioner is found in the joint patta that was issued with respect to the subject property.

7. Insofar as the pendency of the suit, the mere pendency of the suit in O.S.No.28 of 2021 cannot be a ground to refuse to register the document unless the competent civil Court has passed any restraint order in that regard. The third respondent was hesitant to register the document, since he has also been made as a defendant in the suit.

8. It will be left open to the third respondent to register the document presented by the petitioners, in the absence of any restraint order passed by the competent civil Court. Ultimately, the registration of document itself will be subject to the result of the suit in O.S.No.28 of 2021 by the principle of *lis pendens*. The certificate of the Village Administrative Officer countersigned



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by the Deputy Tahsildar and also the joint patta issued in favour of the second petitioner shall be received by the third respondent. The sale deed shall be registered, subject to fulfilling all the other requirements.

9. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

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N.ANAND VENKATESH, J.

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