



W.P.(MD)No.16130 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.16130 of 2021
and
W.M.P.(MD).No.12998 of 2021

S.Rajagopal

... Petitioner

Vs.

The Joint Sub Registrar No.I,
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 orders passed by the respondent in his proceedings in Refusal No.RFL/1 Number Joint Sub Registrar, Cheranmahadevi/5/2021 dated 24.08.2021 and quash the same and consequently direct the respondent to register the Sale Deed Document executed by the petitioner on 24.08.2021 which was refused by the respondent in Refusal No.RFL/1 Number Joint Sub Registrar, Cheranmahadevi/5/2021 dated 24.08.2021.



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For Petitioner : Mr.Niranjana S.Kumar

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

ORDER

This Writ Petition has been filed challenging the refusal check slip issued by the respondent dated 24.08.2021 and for a consequential direction to the respondent to register the sale deed executed by the petitioner on 24.08.2021 and to release the same.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondent.

3. The case of the petitioner is that he became the absolute owner of the property in Survey Nos.266/1B and 400/2 by virtue of a registered settlement deed dated 23.07.2020 which was registered as Document No.696/2020. The petitioner dealt with Survey No.400/2 to an extent of 5 cents out of 24 cents through a registered sale deed dated 10.03.2021 registered as Document No.225/2021. When the sale was made, the subject property was shown as punja lands.



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4. The petitioner wanted to sell the remaining property to an extent of 19 cents in Survey No.400/2 and he executed a sale deed dated 24.08.2021 in favour of Tmt.Appollo Augustha Esther. When this document was presented for registration before the respondent, the respondent refused to register the document by issuing a refusal check slip dated 24.08.2021. The reason that was assigned was that the property in question is an unapproved layout and unless, the same is regularized, the registration will not be permitted in view of Section 22-A of the Registration Act. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. In the considered view of this Court, the petitioner was dealing with the property only as a punja land and at no point of time, there is any material to establish that there is an unapproved layout which was attempted to be dealt with by the petitioner.

6. This Court had an occasion to deal with the similar issue in W.P.(MD).No.259 of 2021. This Court after taking into consideration the scope of Tamil Nadu Regularization of Unapproved Layout and Plots Rules, 2017, came to a conclusion that only a plot / unapproved layout cannot be dealt with



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without regularization and the same cannot be extended to punja lands. The

relevant portions in the order are extracted hereunder:

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



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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.

10. In view of the above discussion, the impugned refusal check slip issued by the second respondent is hereby quashed. There shall be a direction to the second respondent to entertain the partition deed presented by the petitioner for registration after ensuring that the petitioner is dealing with the property only as a punja land and not as a housing plot. Once necessary stamp duty and registration charges are paid, the document can be registered and it can also be released. It is also made clear that the registration of the sale deed will not in any way regularize the earlier sale of unapproved plots and as and when those plots are sought to be dealt with, the Tamil Nadu Regularization of unapproved Layouts and Plots Rules, 2017 will



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automatically come into force. This clarification is required

in order to ensure that this order is not misconstrued.”

7. The issue on hand is squarely covered by the earlier order passed by this Court. The petitioner is attempting to deal with the property as punja land measuring an extent of 19 cents. There will be no restriction to deal with the property in that status. Therefore, if the registration authority is able to ensure that the petitioner is dealing with the property only as a punja land and not as a housing plot, there must be no difficulty to entertain the document and to register the same. It must also be made clear that the registration of the sale deed by itself will not be construed as regularization, if ultimately the property is attempted to be utilized as plots.

8. In the result, the impugned refusal check slip issued by the respondent is hereby set aside. The sale deed presented for registration before the respondent shall be entitled and registered, subject to the petitioner fulfilling all the other requirements.



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9. This Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

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

To

The Joint Sub Registrar No.I,
Cheranmahadevi,
Tirunelveli District.



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Nsr

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