



W.P.(MD)No.16146 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.10.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16146 of 2021

and

W.M.P.(MD)Nos.13007 of 2021

M.Balamurugan

... Petitioner

vs.

1.The Chairperson,
Tamil Nadu Real Estate Regulatory
Authority (TNRERA), 1st Floor,
No.1-A, Gandhi-Irwin Bridge Road,
Egmore, Chennai – 600 008.

2.The Sub Registrar,
Thiruvadanai Sub Registrar Office,
Taluk Office Complex,
Thiruvadanai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings No.04/2021 dated 19.08.2021 and to quash the same as illegal and consequently, to direct the respondent to register and release the sale deed dated 19.08.2021 within the stipulated period that may be stipulated by this Court.



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For Petitioner :Mr.H.Mohammed Imran
for M/s.Ajmal Associates
For R1 :Mr.R.Satheesh
For R2 :Mr.B.Sarvanan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the refusal check slip issued by the second respondent dated 19.08.2021 refusing to register the document that was presented by the petitioner for registration.

2.The case of the petitioner is that the subject property in Plot No.3 measuring an extent of 216 sq.mtre, was purchased by one Rathi Devi through a registered sale deed dated 02.08.2019 registered as Doc.No. 1249/19 from M.K.Haja Najumudeen and others. The petitioner herein wanted to purchase this property from Rathi Devi. Accordingly, the said Rathi Devi executed a sale deed in favour of the petitioner and when this sale deed was presented for registration before the second respondent, the second respondent through the impugned refusal check slip, dated 19.08.2021 refused to register the document on the ground that W.P.(MD)No.10402 of 2021 is pending before this Court and that only



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after the disposal the said Writ Petition, the document will be entertained for registration. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3.Heard Mr.H.Mohammed Imran, learned Counsel appearing for the petitioner, Mr.R.Satheesh, learned Counsel for the first respondent and Mr.B.Saravanan, learned Additional Government Pleader appearing on behalf of the second respondent.

4.This Court has disposed of W.P(MD)No.10402 of 2021 by order dated 16.10.2023. This Court has rendered a finding that the person from whom the aforesaid Rathi Devi had purchased the property has to compulsorily register himself under RERA and that no further transaction can be made by the owner of the property without registering under RERA.

5.The above finding rendered by this Court pertains to only that portion of the plots, which are yet to be dealt with by the original owner of the property, namely, M.K.Haja Najumudeen. It is only for those



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properties, this Court had directed the concerned person to register himself under RERA in order to ensure that the consumers, who are purchasing the plots are properly safeguarded. In the instant case, the plot has already been sold to Rathi Devi and in turn, the petitioner wants to purchase the property in Plot No.3 from Rathi Devi. This transaction will not fall within the scope of order passed in W.P.(MD)No.10402 of 2021, since it is an independent transaction between Rathi Devi and the petitioner. In other words, for a transaction, which had already taken place, the purchaser cannot be put back on time and be restrained from dealing with the property, which had already been purchased. The transaction that is undertaken by Rathi Devi will not fall within the ambit of RERA, since Rathi Devi cannot be held to be involved in conducting a real estate project as defined under Section 2(zn) of the Act.

6.In view of the above, it is left open to the second respondent to entertain the document and to register the same, if all the other requirements are satisfied by the petitioner and the intending vendor.



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7.This Writ Petition is disposed of with the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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

16.10.2023

cmr

To

The Sub Registrar,
Thiruvadanai Sub Registrar Office,
Taluk Office Complex,
Thiruvadanai, Sivagangai District.



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N.ANAND VENKATESH, J.

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