



W.P.(MD)No.16328 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16328 of 2023

T.Muniyasamy

... Petitioner

versus

The Sub Registrar,
Paramakudi,
Ramanathapuram District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in his proceedings Serial No. 35 of 2023, dated 26.06.2023 and quash the same and consequently, direct the respondent to register the sale deed dated 26.06.2023 and release the same within the time limit stipulated by this Court.

For Petitioner : Mr.D.Selvanayagam
For Respondent : Mr.P.T.Thiraviam,
Government Advocate

ORDER

The petitioner and his brother one T.Muthukrishnan have jointly purchased a land in Survey Nos.387/1A2, 387/3A, to an extent of 62



W.P.(MD)No.16328 of 2023

cents, situated at Ramanathapuram Village, Paramakudi Taluk, from the land owners, through a Power of Attorney, namely, one Rani, by a sale deed dated 26.06.2023. When the sale deed was presented for registration before the respondent, the same has been returned with a refusal check slip dated 26.06.2023 that the land which is sought to be registered is an unapproved plot and therefore, there is a bar under Section 22A of the Registration Act, 1908, to register the same. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the petitioner and his brother purchased the said land only as a Punja land and not for any construction purpose and therefore, Section 22A of the Registration Act, 1908 would not arise. According to the learned counsel appearing for the petitioner, the said land is not meant for any residential purpose. In support of his contention, he has also relied upon the orders of this Court passed in W.P.(MD)No.7801 of 2021 dated 15.04.2021 and W.P.(MD)No.22618 of 2022 dated 02.09.2022.



W.P.(MD)No.16328 of 2023

3. The learned Government Advocate, by relying on the counter affidavit filed by the respondent, submits that Survey No.387 was separated into plots by Suseenthiran and Thudukutchi Ramalingam and they were registered before the respondent's office vide document Nos. 87, 504, 505, 506, 875, 876, 877, 878, 1442, 1575, 1576, 1577, 1578, 1851, 1852/1985 and 1745, 2456, 2457, 2512/1986, 1318/2001, 3389/2007, 1643/2008, 35/2009, 3322/2011, 5480/2011, 5755/2011, 5756/2011, 5844/2011, 5845/2011, 5985/2011, 655/2012 as house site plots. The said Suseenthiram and Thudukutchi Ramalingam executed a General Power of Attorney in favour of one Rani in respect of the Plot Nos.183, 184, 185, 1896, 187, 199, 200, 201, 202, 203, 204, 215, 216, 217, 223, 224 and 225 vide Document No.BK4/313/2008. From these lands, the petitioner and his brother purchased 62 cents through a Power of Attorney, namely, one Rani. The General Power of Attorney Deed in Document No.1562/2023 has been executed by giving authorization to the Power of Attorney only to obtain approval for the layout. Therefore, the subject property comes under the category of



W.P.(MD)No.16328 of 2023

unapproved layout. Further, in G.O.(MS)No.78, Housing Rural

Development Department dated 04.05.2017, “Layout” is defined as

(i) division of land into plots exceeding 8 in numbers in Chennai Metropolitan Planning area ii) division of land into plots by introducing new road or street in areas other than Chennai Metropolitan area. Therefore, as per G.O.Ms.No.78, dated 04.05.2017, the document is deemed to be in contravention of Section 22A of the Registration Act, 1908 as it has not been approved by the Urban Development Authority. For demarcation of plots, no permission has been obtained from the Local Body. Therefore, the sale deed dated 26.06.2023, which was presented for registration, was refused by the respondent.

4. This Court considered the rival submissions and perused the materials available on record.

5. The respondent claims that the land in Survey No.387 has already been plotted out and therefore, he refused to register the



W.P.(MD)No.16328 of 2023

document as per the provisions under Section 22A of the Registration

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6. For Clarity, Section 22A(2) of the Registration Act is extracted hereunder:

“22.A. Refusal to register certain documents –

Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely -

(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease -

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under Section 9-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;



(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958); or

(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995), unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.”

7. In this case, the petitioner claims that the petitioner and his brother have purchased the said land only as a Punja land and not for



W.P.(MD)No.16328 of 2023

house site. In similar case, this Court has taken a decision in W.P.

(MD)No.7801 of 2021 as follows:

“10. 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.

11. 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 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.

12. 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 sale 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 four unapproved plots made in the year 2016 and as and when those plots are sought to be dealt with, the Tamil Nadu Regularization of unapproved Layouts and Plots Rules, 2017 will automatically come into force. This clarification is required in order to ensure that this order is not misconstrued.



W.P.(MD)No.16328 of 2023

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8. Since the petitioner along with his brother has purchased the land only as a punja land and not for house site, this Court, by following the above said decision, is inclined to allow this writ petition by setting aside the impugned refusal check slip dated 26.06.2023.

9. Accordingly, this writ petition is allowed by setting aside the impugned refusal check slip dated 26.06.2023. There shall be a direction to the respondent to entertain the sale deed presented by the petitioner for registration. No costs.

11.08.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Sub Registrar,
Paramakudi,
Ramanathapuram District.

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W.P.(MD)No.16328 of 2023

B.PUGALENDHI, J.

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W.P.(MD)No.16328 of 2023

11.08.2023