



W.P(MD)No.22280 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22280 of 2023 and
WMP(MD) No.18561 of 2023

M.Selvaraj

... Petitioner

Vs

1.The District Registrar,
Karaikudi,
Sivagangai District.

2.The Sub-Registrar Office,
O/o The Sub Registrar,
Thirupathur Sub Registrar Office,
Thirupathur Taluk,
Sivagangai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in RFL/Thirupathur-Karaikudi/83/2023, dated 31.08.2023 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to take on file the Sale Deed dated 30.08.2023 submitted by the petitioner and register the same.



W.P(MD)No.22280 of 2023

For Petitioner : Mr.T.Aswin Rajasimman for
M/s.Lajapathi Roy and Associates
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The petitioner has presented a document for registration of land in S.No.121/26 of K.Vairanpatti Village, Thirupathur Taluk, Sivagangai District and the document was not registered by the respondents by referring the provision under Section 22 A of the Registration Act,1908 that the adjacent lands are the layout and were sold as plots. Therefore, this property is also meant for housing purpose and without any layout approval, it cannot be registered. This refusal check slip issued by the Sub-Registrar, Thirupathur Taluk, dated 31.08.2023 is under challenge in this writ petition.

2.The learned counsel appearing for the petitioner submits that the petitioner has purchased the property to an extent of 66 cents for the purpose of agriculture. Though the adjacent land has been registered as plots, if the land is purchased in its original



W.P(MD)No.22280 of 2023

position for the purpose of agriculture, it cannot be treated as a housing plot and the requirement of any approval from the competent authority is not required. The learned counsel for the petitioner has also relied on the Judgment of this Court in W.P(MD) No.259 of 2021, dated 20.04.2021, wherein, this Court has considered the similar issue and passed an order. The relevant paragraphs from the above order are extracted as under:-

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



W.P(MD)No.22280 of 2023

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 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



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W.P(MD)No.22280 of 2023

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 automatically come into force. This clarification is required in order to ensure that this order is not misconstrued.

3.Following the same, another order has also been passed by this Court in W.P(MD) No.147 of 2023, dated 30.01.2023 and the relevant paragraph is as under:-

4. The policy of the Government is that unapproved layouts cannot be allowed to be promoted. Plots which are part of such unapproved layouts cannot be sold or registered. If the registering authority unmindful of the statutory prohibition entertains a document and register the same, he is even liable for prosecution. At the same time, a balance can be struck between the



W.P(MD)No.22280 of 2023

decision relied on by the learned Counsel appearing for the writ petitioner and the statutory prohibition. The learned Counsel for the petitioner states that a recital to the effect that the schedule property will not be sold in favour of third parties without getting prior approval from the competent authority will be incorporated. The petitioner is permitted to re-present the petition mentioned document after adding the recital mentioned above. Thereupon, the second respondent shall receive the same, register it and release it subject to the fulfillment of other usual formalities.'

4.In view of the above, this writ petition is allowed. The impugned order is set aside. The petitioner is directed to file an affidavit of undertaking before the respondents that he has purchased the subject land only for the purpose of agriculture and he will keep the land as agriculture land in future. On receipt of such affidavit from the petitioner, the respondents shall register the



W.P(MD)No.22280 of 2023

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document presented by the petitioner for the subject agricultural land. No costs. Consequently, connected Miscellaneous Petition is closed.

13.09.2023

NCC :Yes/No

Index :Yes/No

Internet:Yes

vrn

To

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Sivagangai District.
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O/o The Sub Registrar,
Thirupathur Sub Registrar Office,
Thirupathur Taluk,
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W.P(MD)No.22280 of 2023

B.PUGALENDHI, J.

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