



W.P(MD)No.22332 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22332 of 2023 and
WMP(MD) No.18616 of 2023

S.P.Amuthan

... Petitioner

Vs

1.The District Registrar (Administration),
Office of the District Registrar,
Palani,
Dindigul District.

2.The Sub Registrar,
O/o The Sub Registrar,
Guziliamparai,
Dindigul District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the refusal check slip issued by the second respondent in his proceedings in Refusal Number: RFL/Guziliamparai/91/2023, dated 24.08.2023 and quash the same as illegal and consequently to direct the second respondent to register and release the relinquishment deed, dated 24.08.2023



W.P(MD)No.22332 of 2023

acknowledged by the second respondent as Temporary No.TP/158256813/2023 within a period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates
For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader

ORDER

The petitioner has presented a document for relinquishment of a property before the Sub Registrar, Guziliamparai/the second respondent herein and the same was refused to register and a refusal check slip has been issued to that effect. Challenging the same, this writ petition is filed.

2.The learned senior counsel appearing for the petitioner submits that the second respondent has refused to register the document by referring the sale agreement, which was registered on 31.12.2015, which has not been cancelled. He further submits that the agreement for sale registered in the year 2015 has not been



W.P(MD)No.22332 of 2023

WEB COPY

effected and the amount has been returned to the parties. However, the parties have failed to cancel the document. After the lapse of three years, this agreement becomes non-executable. More over, as on date, there is no civil suit is pending between the parties. In the absence of any mandate or orders from the competent civil Court, the registering authority is not supposed to refuse to register the document. The learned counsel by referring Section 54 of the Transfer of Property Act submits that a contract for sale of immovable property by itself does not create any interest in or charge on such property. Registration of a document can be refused only as per Rule 55 of the Tamil Nadu Registration Rules and the same is extracted as under:-

“55.It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a)that the parties appearing or about to appear



WEB COPY



W.P(MD)No.22332 of 2023

- before him are not the persons they profess to be;
- (b)that the document is forged;
 - (c)that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
 - (d)that the executing party is not really dead, as alleged by the party applying for registration; or
 - (e)that the executing party is a minor or an idiot or a lunatic.”

3.The learned senior counsel has also relied on the orders passed by the Honourable Division Bench of this Court in W.A(MD) No.921 of 2022, dated 21.06.2023, wherein, this Court has held as follows:-

4. Contending contra, Mr.M.Ajmal Khan, learned Senior Counsel appearing for the respondent would submit that the first submission of the learned Additional Advocate General based on Section 22(A) of the Registration Act, is wholly misconceived. He would point out that what is prohibited under 22(A) is only registration of instruments relating to transfer of immovable property by way of Sale, Gift,



WEB COPY



W.P(MD)No.22332 of 2023

Mortgage or Lease and not otherwise. Drawing our attention to Section 54 of the Transfer of Property Act, 1882, the learned Senior Counsel would submit that the substantive law, namely, Transfer of Property Act, 1882, makes it clear that the agreement of sale does not create any interest in immovable property and agreement of sale will not stand covered by Section 22(A) of the Act.

4.Mrs.D.Farjana Ghoushia, learned Special Government Pleader, who takes notice for the respondents by referring a circular No.18223/C1/2013-4 dated 13.11.2013 submits that there is an encumbrance on the property by way of a registered document and therefore, the second respondent has refused to register the document, as per the circular issued by the Inspector General of Registration.

5.This Court considered the rival submissions made and also perused the documents placed on record.



W.P(MD)No.22332 of 2023

WEB COPY

6.The registration of the relinquishment deed presented by the petitioner was refused by the second respondent on the ground that in respect of the subject property, a sale agreement vide Document No.2332 of 2015 was previously registered and the same was not cancelled.

7.An agreement of sale does not create any right on charge over the property. Further the Division bench of this Court in *N.Ramayee Vs.the Sub Registrar* reported in **2020 (6) CTC 697** held that merely because an agreement of sale is registered, subsequent transfer cannot be prohibited and therefore Registrar has no right to refuse to register subsequent documents on the basis of the sale agreement already registered in respect of the same property.

8.In view of the above, this writ petition is allowed. The impugned order is hereby set aside. There shall be a direction to the respondents to register the document presented by the petitioner. The petitioner shall also file an affidavit of undertaking before the



W.P(MD)No.22332 of 2023

WEB COPY

Registering Authority that there is no suit is pending with regard to the sale agreement, dated 31.12.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

13.09.2023

NCC :Yes/No

Index :Yes/No

Internet:Yes

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To

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W.P(MD)No.22332 of 2023

B.PUGALENDHI, J.

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