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W.P.(MD)NO.24396 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24396 of 2023

Vasantha

... Petitioner

Vs.

The Sub Registrar,
Pavoorchatram,
Tenkasi District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip issued by the respondent in refusal No.RFL/Pavoorchatram/45/2023 dated 31.08.2023 and quash the same as illegal and consequently direct the respondent to register the document submitted by the petitioner in respect of the property in survey No.160A/4B3 measuring 10 cents situated in Kalloorani Village, Tenkasi Taluk, Tenkasi District in the light of Section 22(A)(2) of the Registration Act within a time frame fixed by this Court.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.M.Prakash,
Additional Government Pleader.

* * *

**ORDER**

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Heard both sides.

2. The writ petitioner wanted to sell the petition-mentioned premises in favour of one Paulvannan. The sale deed dated 20.06.2023 was executed by him and the same was presented for registration. It was returned on the ground that the parent document had been registered in violation of Section 22A of the Registration Act 1908. The refusal check slip was issued to that effect. Questioning the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The learned Additional Government Pleader appearing for the respondents submitted that the reason set out in the impugned order is well founded and it does not call for any interference.



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5. I carefully considered the rival contentions and went through the materials on record.

6. Section 22A(2) of the Registration Act reads as follows:-

“ 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. It is true that the said provision casts duty on the registering authority to refuse registration. The learned counsel appearing for the petitioner points out that vide sale deed dated 20.06.2023, the petitioner is proposing to sell houses. If a house site alone is the subject matter of conveyance, the instrument in question will fall within the prohibitory sweep of the statutory provisions. In this case, the parent deed was registered as document No.991/2019. It is



pointed out that subsequently, the petitioner obtained planning approval and constructed houses also. If the registering authority had refused the registration in the year 2019 itself, it would be a different matter altogether. Having allowed the petitioner to purchase a house site through a registered sale deed and after permitting the petitioner to construct a house, it is too late in the day to tie the hands of the writ petitioner. In this view of the matter, the order impugned in this writ petition is set aside. This writ petition stands allowed. The petitioner is permitted to re-present the document. The same will be received, registered and released subject to fulfillment of the other usual formalities. No costs.

03.11.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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To:

The Sub Registrar,
Pavoorchatram,
Tenkasi District.



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G.R.SWAMINATHAN,J.

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