



W.P.(MD)No.24681 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24681 of 2023

and

W.M.P.(MD)Nos.20865 and 20867 of 2023

P.Jayachandran

... Petitioner

Vs.

1.The District Registrar,
Karur District,
Karur.

2.The Sub Registrar,
O/o. The Sub Registrar,
Velyuthampalayam,
Karur District.

3.The Inspector of Police,
Economic Offence Wing,
Karur.

... Respondents

*(R3 is suo motu impleaded vide order dated
04.12.2023 in W.P.(MD)No.24681 of 2023
by GRSJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records in pursuant to the impugned order passed by the 2nd respondent in Registration Refusal Check Slip in Refusal Number - RFL/Velayuthampalayam/ 31/2023 dated 04.09.2023 and quash the same and consequently direct the 2nd respondent to register the sale deed presented by the petitioner in respect of the house plot property situated in S. No.564/1, 3, 5, 6, 7 and S. No.180/2, 5 in Punjai Pugalur Village (South and North), Pugalur Taluk, Karur District.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner wanted to promote the petition mentioned land. He, therefore, presented the petition mentioned sale deed for registration before the second respondent. The second respondent refused registration and issued the impugned refusal check slip. The reason set out in the refusal check slip is that the third respondent had called upon the registering authority not to entertain any document pertaining to the



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petition mentioned survey numbers. Challenging the same, the present writ petition came to be filed.

3.The issue raised in the writ petition is no longer *res integra*. My attention is drawn to the order dated 23.09.2020 passed by me in W.P.(MD)No.9574 of 2020. It is was disposed of in the following terms:-

“4.The learned counsel appearing for the petitioner states that the first respondent has no legal authority to issue the impugned communication. He also points out that only through the Court of law, an attachment can be made. In the case of the assets pertaining to TNPID Act, the Government will have to issue G.O. for attaching the properties and the same will have to be either set aside or made absolute by the Special Court. In the case on hand, the investigation officer on his own had proceeded to effect attachment of the property. The learned counsel also points out that the case on hand is squarely covered by the order dated 09.07.2015 made in W.P.(MD)No.11221 of 2015.

5.I carefully went through the aforesaid order. The learned Judge in the said decision held as follows:-

“.....12.This Court is in complete agreement with the law laid down by the Full Bench of the Bombay High



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Court and the Kerala High Court with regard to the power of the police officer to seize immovable properties under Section 102, Cr.P.C. The Deputy Superintendent of Police, by couching the impugned communication in a camouflaged language, is in fact, indirectly attaching the properties of the accused via the backdoor, which is not permissible. If the Deputy Superintendent of Police is desirous of safeguarding the interest of the depositors, he should have immediately taken steps to send a report to the Government for initiating action under Section 3 of the Criminal Law Amendment Ordinance and not through such a subterfuge.

13.The order impugned is indeed arbitrary exercise of power and is therefore, violative of Article-14 of the Constitution of India. It is always open to the Investigating Officer to call for information from the Sub-Registrar about the property holdings of an accused. He can also ask the Sub-Registrar to inform him, if any transaction concerning the properties of the accused, is registered. He cannot prohibit the Registrar from registering a document...”

6.Respectfully following the aforesaid decision, the order impugned in the writ petition is quashed and the second respondent is directed to register the petition mentioned document. The writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.”

4.The earliest order passed by the Madras High Court was in W.P.(MD)No.11221 of 2015 dated 09.07.2015. The said order has been followed in quite a few writ petitions.



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5.In this view of the matter, the impugned order is set aside. The petitioner is at liberty to re-present the document. The same will be received, registered and released subject to fulfillment of other usual formalities. It is open to the third respondent to move the Government for taking appropriate steps in accordance with law.

6.With this liberty to the third respondent, the impugned refusal check slip is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The District Registrar,
Karur District, Karur.
- 2.The Sub Registrar,
O/o. The Sub Registrar,
Velyuthampalayam,
Karur District.
- 3.The Inspector of Police,
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G.R.SWAMINATHAN, J.

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