



W.P(MD)No.28641 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28641 of 2022

and

W.M.P(MD).No.22669 of 2022

1.P.Ponnuchamy
2.C.Balachandran

... Petitioners

Vs.

1.The Inspector General of Registration,
Registration Department,
100, Santhom High Road,
Chennai 600 122.

2.The District Registrar,
Periyakulam District Registration Office,
Vadakarai-Madurai Road,
Periyakulam, Theni District.

3.The Sub Registrar,
Theni Sub Registrar Office,
Theni, Theni District 625 531.

4.R.Sudhakar
5.Thiyagarajan

... 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 the impugned refusal slip in RFL/Theni/19/2022 dated 02.12.2022 passed by the third respondent, quash the same as illegal and



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consequently direct the third respondent to register the sale deed dated 30.11.2022 presented by petitioners for registration in respect of the property in Survey No.431 (Plot No.19) to the extent of 1447 ½ sq.ft., situated at Allinagaram Village, Theni Taluk & District within the time that may be stipulated by this Court.

For Petitioner	: Mr.M.Senthil Kumar
For Respondents	: Mr.N.Satheeskumar (for R1 to R3) Additional Government Pleader Mr.C.Jeganathan (for R4) Mr.C.Ganesh Kumar (for R5)

ORDER

Heard the learned counsel on either side.

2. The property in question belongs to the fourth respondent namely Thiru.R.Sudhakar. Thiru.R.Sudhakar executed a registered General Power of Attorney in favour of Thiyagarajan/fifth respondent herein on 05.08.2022. Based on the said Power of Attorney, Thiyagarajan executed a sale deed dated 30.11.2022 in favour of the writ petitioners. It was presented for registration before the third respondent on the same day. The third respondent declined to register the document and issued the impugned Refusal Check Slip by citing the pendency of O.S.No.253 of 2022 on the file of the Subordinate Court, Theni. The said suit was instituted by one M.Selvaraj against R.Sudhakar for



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recovery of money. Challenging the impugned Refusal Check Slip, the present writ petition has been filed.

3. It is true that Sudhakar has filed a document for cancelling the Power of Attorney dated 05.08.2022. He had also given a notice to Thiyagarajan in this regard. I called upon the learned counsel for the fourth respondent as to when these developments took place. It is seen from record that the notice for cancellation was given only on 06.12.2022. The cancellation deed was also presented only on 22.12.2022. In these circumstances, the presentation of the sale deed for registration by the fifth respondent on 30.11.2022 cannot be declined to be registered. The reason setout in the impugned Refusal Check Slip is also not sustainable. Admittedly, it was not a declaratory suit. In any event, no restraint order has been passed against the Registering Authority by the jurisdictional Civil Court. Pendency of institution of a suit for recovery of money by one M.Selvaraj against the fourth respondent herein cannot be a ground for declining to register with the document in question.

4. In that view of the matter, the order impugned in this writ petition is quashed and the Writ Petition is allowed. The petitioners are permitted to re-present the document in question before the third respondent. The third



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respondent shall receive the same, register it and release it subject to fulfilment of the other usual formalities. I make it clear that merely because this Court had permitted the registration of the sale deed dated 30.11.2022, that would not in any way amount to deciding the substantive right of the fourth respondent. It is open to the fourth respondent to establish his superior right in the manner known to law. All the contentions and defences of the fourth respondent are left open. No costs.

5. The fifth respondent accepts before this Court that he had executed the sale deed dated 30.11.2022 on the strength of the Power of Attorney dated 05.08.2022. This Court has only directed the registration of the document in question and it is not gone to any other issue.

27.01.2023

NCC : Yes / No

Index : Yes / No

Rmk



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G.R.SWAMINATHAN, J.,

Rmk

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