



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.12.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.26855 of 2023
and
WMP(MD)No.23079 of 2023**

M.Gnanasekaran

... Petitioner

Vs.

1.The Assistant Director,
District and Town Country Planning
Office,
Theni District.

2.The District Registrar,
Office of the Sub - Registrar,
Theni District.

3.The Sub Registrar,
Theni, Theni District.

4.The Executive Officer,
Veerapandi Selection Grade
Town Panchayat,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the
records relating to the impugned order passed by the 1st respondent in



his proceedings Na.Ka.No.954/2023/The.Ma.2 dated 18.08.2023 and the consequential refusal check slip in Refusal No.RFL/Theni/142023 dated 16.09.2023 and the order passed by the 4th respondent in his proceedings Na.Ka.No.296/2010 dated 05.10.2023 and quash the same as illegal and arbitrary in respect of the land of the petitioner in S.No. 1596 admeasuring 27 cents, (patta No.10793), situated at Sathrapatti Village, Veerapandi, Theni District and consequently directing the respondent No.2 and 3 to register and return the sale deed dated 14.09.2023 to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan, Senior counsel
for Mr.C.Jeganathan

For Respondents: Mr.M.Sidharthan,
Addl Government Pleader for R1 to R3

Mr.M.Ramesh, Government Advocate
for R4

ORDER

Heard both sides.

2.The petitioner wants to sell the petition-mentioned lands. The sale deed was presented for registration. Registration was refused by the third respondent on the ground that approval from the competent



authority was not obtained and that Section 22A of the Registration Act has been attracted. Challenging the same, this writ petition has been filed.

3.It is not in dispute that the lands have been classified in the revenue record as agricultural lands. The learned counsel for the petitioner draws my attention to the order dated 06.02.2023 made in WP(MD)No.362 of 2023. Paragraph No.5 of the said order reads as follows :

“5.I carefully considered the rival contentions. The issue raised in the writ petition is no longer res integra. A learned Judge of this Court vide order dated 15.04.2021 in W.P(MD)No. 7801 of 2021 was confronted with a similar situation. The said writ petition was allowed in the following terms :

“10. 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



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wants to deal with the property in its original form. In the present case, the petitioner wants to deal with the property as a punja land and not as a plot.

11.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.

12. 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 sale 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 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 four unapproved plots made in the year 2016 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.

...”



4.I am inclined to adopt the very same approach in this case also.

The impugned refusal check slip is quashed. The petitioner is permitted to re-present the document in question. The registering authority shall receive, register and release it subject to the fulfilment of the other usual formalities.

5.This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

21.12.2023

Index : Yes / No
Internet : Yes / No
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To

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Theni District.
- 3.The Sub Registrar, Theni, Theni District.
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G.R.SWAMINATHAN, J.

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