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W.P.(MD)No.29104 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29104 of 2022

Leve Antony

... Petitioner

Vs.

The Sub Registrar,
Burkitmanagaram,
Tirunelveli District.

... Respondent

PRAYER: Writ petition is 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 number. RFL/ Burkitmanagaram/38/2022, dated 09.12.2022 issued by the respondent needs to be quashed and consequently respondent herein be suitably directed to register the Judgment and Decree dated 05.07.2021 passed in O.S.No.72 of 2020 on the file of learned 1st Additional District Munsif, Tirunelveli within the time limit fixed by this Court.

For Petitioner : Mr.AL.Kannan

For Respondent : Mr.S.Shanmugavel
Additional Government Pleader

**ORDER**

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Heard the learned counsel on either side.

2.The petitioner obtained a decree in his favour on 05.07.2021 in O.S.No.72 of 2020 on the file of the I Additional District Munsif, Tirunelveli. The petitioner wanted to register the said Court decree. The respondent declined to do so and instead issued the impugned refusal check slip. Challenging the same, this writ petition has been filed.

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

4.I am not persuaded by the contentions advanced by the learned counsel for the petitioner. As rightly pointed out by the learned Additional General Pleader appearing for the respondent, the decree was passed in a suit for specific performance. The writ petitioner herein had entered into a sale agreement with one Kannamma on 20.09.2018. Alleging that Kannamma has declined to conclude the sale transaction and has breached the contractual obligation, the suit came to be laid. The suit is, ofcourse, decreed on 05.07.2021. However, deeper examination



would reveal that it was an assigned property. Kannammal was granted assignment only in the year 2006. The assignment order categorically had contained a stipulation that for 30 years she cannot alienate the property. The very agreement entered into by the petitioner with the said Kannammal is in clear violation of the statutory provisions.

5.The learned Additional Government Pleader would state that the petitioner had obtained a collusive decree. Whether it is a collusive decree or a contested decree is immaterial. Public policy cannot be circumvented by such stratagems.

6.I therefore sustain the impugned refusal check slip. This writ petition stands dismissed, accordingly. The dismissal of this writ petition will not come in the way of the writ petitioner from recovering the sale consideration paid by him to the said Kannamma. No costs.

15.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.



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To

The Sub Registrar,
Burkitmanagaram,
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