



W.P.(MD)No.31304 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.31304 of 2023

Krishnamoorthy

...Petitioner

-Vs-

The Sub Registrar,
Office of the Sub Registrar,
Vallam,
Thanjavur District.

...Respondent

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned Refusal Check Slip issued by the Respondent in RFL/Vallam-Thanjavur/139/2023 dated 20.12.2023 and to quash the same and consequentially direct the Respondent to register the document as in the manner which is presented before him within the time stipulated by this Court.

For Petitioner : Mr.S.Venkatesan
For Respondent : Mr.K.S.Selvaganesan
Additional Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned refusal Check Slip issued by the respondent, wherein the respondent refused to register



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the documents submitted by the petitioner on the ground that a suit is pending in O.S.No.137 of 2020 on the file of the First Additional District Judge (PCR), Thanjavur.

2.The case of the petitioner is that the subject property was sold in favour the petitioner by virtue of a sale deed dated 15.12.2023. When this document was submitted for registration before the respondent, the respondent refused to register the document only on the ground that, there is a suit pending in O.S.No.137 of 2020 on the file of the First Additional District Judge(PCR), Thanjavur. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Heard Mr.S.Venkatesan, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader for the respondents.

4.The respondent has taken a stand that there is a suit pending before the competent Civil Court touching upon the subject property and therefore, no registration can be entertained till the disposal of the suit.



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5. In the considered view of this Court, the impugned refusal Check Slip is unsustainable in law. There is absolutely no bar for a party dealing with the property, even during the pendency of a suit. This is of course subject to interim orders, if any, passed during the pendency of the suit, restraining such transfer of property. In the present case, admittedly, no interim order has been passed.

6. The Hon'ble Supreme Court in the judgment in ***Hardev Singh vs. Gurmail Singh reported in (2007) 2 CTC 78*** has categorically held that a transaction that takes place during the pendency of the suit, at the best will be hit by the rule of Lis Pendens and the same will not automatically result in rendering the transaction 'void' or 'illegal'. The transaction will only be subject to the result of the litigation and the parties will be bound by the result in the litigation. This position has been reiterated by the Hon'ble Supreme Court in ***T.Ravi and another vs. B.Chinna Narasimha and others reported in (2017) 7 SCC 342***.

7. In view of the above, the respondent ought not to have refused to register the document only on the ground that a suit is pending before a competent Civil Court. Such a refusal, in fact, will amount to abdication of a statutory duty imposed on the respondent under the relevant Enactment.



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8.In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned refusal Check Slip issued by the respondent, dated 20.12.2023 and the same is hereby quashed. The respondent is directed to entertain the sale deed presented for registration and the same shall be registered, subject to payment of the stamp duty and registration charges. The documents shall also be released after it is registered.

9.This Writ Petition is allowed with the above directions. However, there shall be no order as to costs.

28.12.2023

Index : Yes/No

Internet : Yes/No

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To

The Sub Registrar,
Office of the Sub Registrar,
Vallam,
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L.VICTORIA GOWRI, J.

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