



W.P. No.7083 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.7083 of 2024

Paneer Selvam

... Petitioner

Versus

The Sub-Registrar,
Anthiyur, Erode District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Refusal Check slip dated 01.02.2024 in RFL/ANTHIYU/4/2024 on the file of respondent herein and quash the same and direct the respondent to register document pending in TP No.TP/172482937/2024.

For Petitioner : Mr. R. Ganesh

For Respondent : Mr. Yogesh Kannadasan,
Special Government Pleader.



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ORDER

This Writ Petition is filed challenging the impugned Refusal Check slip dated 01.02.2024 in RFL/ANTHIYU/4/2024 on the file of respondent herein, to quash the same and direct the respondent to register document pending in TP No.TP/172482937/2024.

2. The case of the petitioner is that the petitioner by Sale Deed dated 31.01.2024, had purchased lands from one A.H.Babu and five others and presented the Sale Deed before the respondent on 01.02.2024 for registration, whereas, the respondent refused to register the same stating that the demised property was subject of mortgage deed dated 11.06.2010 in Document No.2112 of 2010, Anthiyur SRO and by relying upon the circular of the Inspector General of Registration in Circular No.24011/C1/2020 dated 08.10.2020, insisting NOC from the mortgagee. Challenging the same, the present Writ Petition is filed.



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3. The learned counsel for the petitioner submitted that though there is an entry in the Encumbrance Certificate regarding mortgage, the respondent cannot refuse to register the Sale Deed. The refusal to register the document is directly in violation to the order of this Court in W.P.No.2758 of 2023 dated 08.02.2023 whereby, this Court has held that the first proviso to Rule 55-A is found to be invalid and ultra vires and the respondent cannot refuse to register the document placing reliance on the said proviso. At the best, the registrar can register the document subject to mortgage.

4. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondent.

5. Heard both sides and perused the materials available on record.

6. It is to be noted that the first proviso to Rule 55A (i) of the Registration Rule has already been struck down by this Court. Therefore, the impugned refusal check slip passed by the respondent is quashed.



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7. The respondent is directed to register the said document if the same is otherwise in order subject to mortgage shown in the Encumbrance Certificate.

8. Accordingly, this Writ Petition is allowed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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To

The Sub-Registrar,
Anthiyur,
Erode District.



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P.VELMURUGAN. J.

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