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WP.No.12257 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.12257 of 2024

S.Ilayaraja

.. Petitioner

Versus

1. The Join Sub Registrar No.I,
Kallakurichi.

2. Murugesan

.. 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 of the 1st respondent in his proceedings in Na.Ka.No.2157-2/ a.Pa.Pi/ 2023 dated 22.01.2024 and quash the same and thereby direct the 1st respondent to register the sale deed dated 2.5.2023 in P5/ 2023 and release the same to the petitioner forthwith.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.M.Shajahan
Special Government Pleader – R1

Mr.R.Bharathkumar - R2



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Since, no adverse Order has been passed against the second respondent, notice to him is dispensed with. With the consent of both sides, this Writ Petition is taken up for disposal at the admission stage itself.

2. Challenging the impugned proceedings of the first respondent in Na.Ka.No.2157-2/ a.Pa.Pi/ 2023 dated 22.01.2024 and for directing the first respondent to register the sale deed dated 02.05.2023 in P5/ 2023 and release the same to the petitioner forthwith, the present Writ Petition has been filed.

3. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the first respondent and perused the materials available on record.

4. The case of the petitioner is that he had purchased the subject property for valuable consideration on 02.05.2023 and he is in possession and enjoyment of the property. Originally, the sale deed presented by the petitioner was refused to be registered on the ground that a protest petition given by the second respondent at the relevant point of time. Thereafter, it is the case of the second respondent that there is a dispute in the time and the vendor of the writ petitioner did not have any title over the property. Hence, this Court by an



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Order dated 27.07.2023, directed the petitioner to approach the Civil Court.

As against which the petitioner had preferred an appeal in W.A.No.3053 of 2023 and the Division Bench of this Court by an Order dated 07.11.2023 has directed the appellant to represent the document before the respondent and if more than one document is registered, with regard to the same property, appropriate decision can be taken by the authority. When the petitioner presented the document for registration, the same was refused to be registered citing civil dispute. Challenging the same, the present Writ Petition has been filed.

5. It is relevant to note that as far as registration is concerned, the title cannot be decided by the Sub Registrar. Rights of parties will be governed based on the their title and the earlier documents. In such view of the matter, merely on the basis of some protest petition, the document cannot be refused to be registered. This aspect has been elaborately dealt with by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]*** wherein it has been held as follows :

“In a judgment of this Court in the case of *Abdullasa*



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v Inspector General of Registration reported in 2021 2 CWC

451, this Court held that the Registrar cannot refuse to register the document on the basis of objections raised by a rival claimant, who has a different source of title. Similarly, the Hon'ble Apex Court in the case of *Satya Pal Anand v. State of M.P.*, reported in (2016) 10 SCC 767 has held that an enquiry into the title of the executant is beyond the powers of the Sub-Registrar. Therefore, in view of the law declared in this regard, merely on the ground of protest petitions and objections raised by some third party, the document cannot be refused to be registered.”

In view of the above substantive provision of law, the documents cannot be refused to be registered on the basis of a protest petition. However, it is made clear that on the basis of registration, the petitioner cannot make in road into the property without established his title in a Civil Court.

6. Accordingly, this Writ Petition is allowed and the impugned Order passed by the first respondent dated 22.01.2024 is quashed and the first respondent is directed to register the sale deed dated 02.05.2023 presented by the petitioner within a period of fifteen days from the date of receipt of a copy



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of this Order. No costs.

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vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

The Joint Sub Registrar No.I,
Kallakurichi.



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N. SATHISH KUMAR, J.

VRC

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