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W.P.No.8097 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03..06..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.8097 of 2024

C.Nagaraj

..... Petitioner

-Versus-

1.The Sub Registrar,
Ganapathy,
Coimbatore.

2.R.Subramanian

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned refusal slip dated 28.02.2024 bearing No.RFL/fzgjp/6/2024 issued by the 1st respondent and to quash the same and consequently direct the 1st respondent to register the sale deed dated 28.02.2024.

For Petitioner(s) : Mr.M.S.Seshadri

*For Respondent (s) : Mr.Yogesh Kannadasan,
Special Government Pleader
for R1*

ORDER

This writ petition has been filed challenging the refusal slip dated



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28.02.2024 bearing No.RFL/fzgjp/6/2024 issued by the 1st respondent and seeking a consequential direction to the 1st respondent to register the sale deed dated 28.02.2024 presented by the petitioner for registration.

2. It is the case of the petitioner that the property measuring an extent of 2450 square feet comprised in S.No.93/2A, Site No.37, Balaji Nagar, Villankurichi village, Coimbatore North was originally belonged to one V.J.Amala, Kumarasami Gounder, K.Pazhanisamy, K.Padmavathy, Bakiyalakshi, K.Thangavelu. The 2nd respondent purchased the above said property from the above said persons through their power agent-A.Duraisamy through sale deed dated 11.03.1996 registered as Doc.No.880/1996 on the file of the Sub Registrar, Ganapathy.

3. While so, after almost 15 years of sale, the vendors of the 2nd respondent had again sold the very same property in favour K.Balakrishnan through sale deed dated 21.06.1996 registered as Doc.No.2478 of 1996 on the file of Sub Registrar Ganapathy. Thereupon, a suit in O.S.No.475 of 2010 was filed before the II Additional District Munsif Coimbatore by one K.Balakrishnan against the 2nd respondent and A.Duraisamy, the power agent of the vendors of the 2nd defendant seeking a decree and judgement declaring that he was the absolute owner of the subject property and declaring that the



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sale deed bearing Doc.No.880 of 1996 dated 11.03.1996 registered in the name of the 2nd respondent as null and void. The said suit was however dismissed for default by judgement and decree dated 07.04.2015 and reached its finality. Subsequently, the 2nd respondent sold the said property in favour of the petitioner through sale deed dated 28.02.2024.

4. The grievance of the petitioner is that when the sale deed executed by the 2nd respondent was presented for registration, the same was refused to be registered citing the provisions in Section 55-A of the Registration Act, 1908 that there is already an entry in respect of sale of the subject property in favour of K.Balakrishnan by the very same vendor who had sold the property to the 2nd respondent. Hence, the present writ petition.

5. The 2nd respondent, who sold the subject property to the petitioner, has filed a counter affidavit asserting his title over the subject property and supporting the claim of the petitioner. In the counter affidavit the 2nd respondent *inter alia* contended that he had purchased the subject property from V.J.Amala and others through their power agent on 11.03.1996 for a valuable consideration and patta was also issued in his favour after subdivision of the land in to S.No.93/2A2. The suit filed by K.Balakrishnan challenging the sale made in his (2nd respondent) favour was dismissed. The 1st respondent



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ought not to have permitted registration of sale deed dated 21.06.1996 when the title of the subject property had already been conveyed in his (2nd respondent) favour on 11.03.1996.

6. Heard both sides.

7. At the outset, this court is of the view that the refusal check slip impugned in the writ petition cannot be sustained in the eye of law for the simple reason that the sale deed which was registered as Doc.No.880 of 1996 in favour of the 2nd respondent is a prior document whereby title has already been conveyed by V.J.Amala and others on 11.03.1996 through their power agent-A.Duraisamy in favour of the 2nd respondent. Therefore, the subsequent sale made in respect of the very same property in favour of K.Balakrishnan through registered document vide Doc.No.2478 of 1996 would not convey any title to the said K.Balakrishnan. That apart, challenge made by the said K.Balakrishnan to the sale deed vide Doc.No.880 of 1996 has also reached its finality with the dismissal of the suit by decree and judgement on 07.04.2015 made in O.S.No.475 of 2010 by the learned II Additional District Munsif, Coimbatore. Though the suit was dismissed for default, it seems that, till date no steps were taken by the plaintiff therein to restore the suit. Such being the factual aspect, merely because there is already entry on the encumbrance in



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respect of the subject property, the petitioner cannot be relegated to the civil court to get the subsequent sale deed, which would not convey any title in favour of K.Balakrishnan, declared to be not valid in the eye of law. Mere entry on the encumbrance in respect of the subject property based on the subsequent sale deed which would not create any impact over the title of the subject property, unless the prior sale is cancelled in accordance with law, will not be a bar for registration of the sale deed executed by the 2nd respondent in favour of the petitioner.

8. In the light of the law on the subject and factual aspects of the case, this court is of the view that the 1st respondent ought to have registered the sale deed presented by the 2nd respondent for registration. Accordingly, the writ petition succeeds.

In the result, the writ petition is allowed. The impugned order is set aside and the 1st respondent is directed to register the sale deed dated 28.02.2024 presented by the 2nd respondent for registration within a period of one month from the date of receipt of a copy of this order. No costs

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

1. The Sub Registrar, Ganapathy, Coimbatore.

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N.SATHISH KUMAR.J.,

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