



W.P.No.10182 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24..04..2024

CORAM :

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.10182 of 2024

- 1.Prakash
- 2.Vetrivel
- 3.Shanmuga Sundaram

.....Petitioners

VS

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai.
- 2.The District Registrar,
Erode, Erode District.
- 3.The Sub-Registrar,
Sivagiri, Erode District.

..... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of order dated 12.04.2023 bearing refusal number: RFL/Sivagiri_Erode/23/2023 on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to register and release the sale deed dated 10.04.2023 to the petitioners within stipulated time as fixed by this Court.



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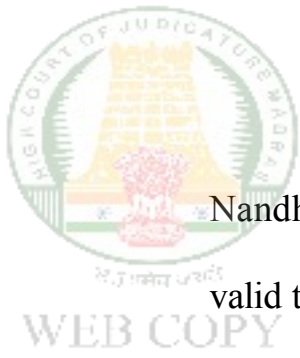
For Petitioners : Mr.K.Myilsamy
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

Challenge in this writ petition is to the refusal check slip issued by the 3rd respondent dated 12.04.203 bearing Refusal Number: RFL/Sivagiri_Erode/23/2023 refusing to register the sale deed dated 10.04.2023 presented by the petitioner for registration on the ground that there is a bar under Section 22-A of the Registration Act, 1908.

2. It is the case of the petitioners that an agricultural land measuring 3 Acres and 22 cents comprised in Old Survey No.398, 399 / Resurvey No.776 at Kollankoil Village, Kodumudi Taluk, Erode District, was jointly purchased by one Subramaniam and Duraisamy Gounder from one Swamiappa Gounder and others through a registered sale deed dated 07.09.1995. After the purchase of the above said agricultural land, they formed a road and sold a portion of the land as agricultural land to different persons and retained certain portion of land as agricultural land. While so, one of the co-sharers viz., Duraisamy, out of love and affection settled his undivided half share on his daughter - Nandhini through a

registered settlement deed dated 27.10.2021. Thus, Subramaniam and



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Nandhini had become the joint owners of the remaining property and had valid title and possession.

3. It is the further case of the petitioners that they jointly purchased an extent of 31 cents of agricultural land from Subramaniam and Nandhini through a sale deed dated 10.04.2023 for a valuable consideration and the entire consideration had been paid to their vendors. The grievance of the petitioners is that when they presented the sale deed for registration, it was refused to be registered by the 3rd respondent on 12.04.2023 by way of impugned refusal check slip on the ground that new road was formed. It is this refusal check slip which is under challenge in the present writ petition.

4. Heard both sides.

5. According to the learned counsel for petitioners, the petitioners purchased subject property only as agricultural land and merely because some properties had already been sold long back as house sites that cannot be put against the petitioners.

6. Per contra, the learned Special Government Pleader, on instructions would submit that an extent of 3.22 Acres of land was originally owned by one Subramaniam and Duraisamy Gounder as agricultural land. They formed a lay out and sold the plots to various persons as house sites till 2013 and one of the co-sharers viz., Duraisamy



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settled his one half share in the left out plots on his daughter-Nandhini and it was Nandhini and the other co-sharer sold the unsold portion of the land in favour of the petitioners. According to the learned Special Government Pleader, since the entire land was already dealt with as house sites, the sale deed in respect of the remaining portion of land was refused to be registered under Section 22-A of the Registration Act.

7. Section 22-A of the Registration Act was inserted by the Tamil Nadu Act 28 of 2012 with effect from 20.10.2016. It deals with Refusal to register certain documents. Accordingly, the Registering Officer shall refuse to register any of the documents enumerated under Section 22-A of the Registration Act. Sub Section (2) to Section 22-A stipulates that “Instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such lands from planning authority concerned”. However, provision to sub-section (2) provides that house sites without permission may be registered if it is shown that same house sites have been previously registered as house sites.

8. The above provision makes it clear that only the properties which have been converted as house sites without permission for development of such lands from planning authority, sale of land is prohibited under



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Section 22-A of the Registration Act, 1908. Whereas the written instruction given by the respondent to the Special Government Pleader would clearly indicate that the portion of the vast extent of landed property have been sold as house sites until 2012 thereafter the remaining agricultural land was sought to be purchased as such. Merely because some portions of the larger extent of agricultural land were dealt with as house sites, there cannot be any prohibition in selling the remaining portion of agricultural land as such. Only in the event, the remaining portions of land were sold as house sites and transfer was sought to be effected, the bar contained under Rule 22-A of the Registration would apply. Whereas the subject land was sold as agricultural land. In such view of the matter, the registering authority ought not to have refused to register the sale deed presented by the petitioners for registration merely on the ground that earlier some portions of the land in the very same survey number were sold as house sites. Therefore, the refusal check slip impugned in the writ petition is not sustainable in the eye of law and the same is liable to be set aside.

In the result, the writ petition is allowed and the impugned refusal check slip issued by the 3rd respondent is set aside and the 3rd respondent is directed to register the sale deed dated 10.04.2023 presented by the petitioners for registration within a period of one month



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from the date of receipt of a copy of this order. No costs. Consequently,
connected WMP is closed.

Index: :Yes/No

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Neutral Citation :Yes/No

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To

1.The Inspector General of Registration, Santhome High Road, Chennai.

2.The District Registrar, Erode, Erode District.

3.The Sub-Registrar, Sivagiri, Erode District.



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N.SATHISH KUMAR,J.

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