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WP.No.11832 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **30.04.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.11832 of 2024

K.Subramaniam

.. Petitioner

Versus

The Sub Registrar,
Nambiyur, Erode District.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of Refusal Check Slip issued by the respondent in RFL/Nambiyur/9/2024 dated 05.03.2024 and quash the same and direct the respondent to register the petitioner's mortgage deed dated 04.03.2024 in TP/176061491/2024.

For Petitioner : Mr.M.Nandhakumar
for M/s.Eswar Kumar & Rao Law Firm

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

With the consent of both sides, this Writ Petition is taken up for final



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disposal at the admission stage itself.

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2. This writ petition is filed to quash the refusal slip RFL/Nambiyur/9/2024 dated 05.03.2024 and direct the respondent to register the petitioner's mortgage deed dated 04.03.2024 in TP/176061491/2024.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the petitioner is that originally, the petitioner entered into a sale agreement with a third party and subsequent to the execution of the sale agreement, the agreement holder died. Thereafter, the petitioner executed a mortgage deed on 04.03.2023 and when he presented the same for registration, the respondent refused to register the document stating that only after cancellation the sale agreement, mortgage deed can be registered. Challenging the same, the present Writ Petition has been filed.

5. The mortgage deed presented by the petitioner was refused to be registered by the respondent stating that as per the circular 2482/C1/2022, dated 02.02.2023 of the Registration Department, since a sale agreement has



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already been executed in favour of a third party, the mortgage deed cannot be registered in respect of the very same property. At the outset, this Court is of the view that a circular cannot override statutory right and substantive provision of law and the respondent cannot refuse to register the document. The said fact has been elaborately dealt by this Court in **N. Ramayee v Sub-Registrar** reported in **(2020)6 CTC 697**. In such view of the matter, unless substantive provisions is made in the statute merely on the basis of circular orders, the registering authorities refusing to register a document cannot be sustained in the eye of law. Hence, the refusal slip of the second respondent is liable to be quashed.

6. Accordingly, this Writ Petition is allowed and impugned refusal slip dated 05.03.2024 of the respondent is quashed. The respondent is directed to register the mortgage deed dated 04.03.2024 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this order. No costs.

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vrc

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



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The Sub Registrar,
Nambiyur, Erode District.



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N. SATHISH KUMAR, J.

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