



WEB COPY



WP.No.12983 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.12983 of 2024

S.Padam Chand Jain

.. Petitioner

Versus

1.State by Rep by Secretary to Govt,
Commercial Taxes and Registration Dept.
Fort. St.George, Chennai 600 009.

2.Inspector General of Registration,
Mylapore, Santhome, Chennai – 600 004.

3.The Sub – Registrar,
Arani, Tiruvallur District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to Refusal Check Slip vide refusal No.RFL/Arani_Tiruvallur/16/2024 dated 26.03.2024 on the file of Third Respondent and quash the same and direct the 3rd respondent to register the sale deed presented by the petitioner in respect of the properties in S.No.120/5B (As per Patta New Survey No.120/5B2A1) measuring 16 cents out of 59 cents, S.No.120/5C(As per Patta New Survey No.120/5C2A, 120/5C2F) measuring 13 cents out of 56 cents, S.No.120/8A (As per Patta New Survey No.120/8A1) measuring 26 cents out of 31 cents, S.No.120/9 (As per Patta New Survey No.120/9B1A) measuring 14cents out of 38 cents, S.No.120/7 (As per Patta New Survey No.120/7A1A) measuring 95 cents the lands standing in Patta No.1021, 1933 in the name of C.Shanmugam, situated in No.31, Vengal Village, Tiruvellore Taluk and District.

For Petitioner : Mr.J.R.K.Bhavanatham

For Respondents : Mr.L.S.M.Hasan Fizal

Additional Government Pleader

ORDER



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Challenge has been made to the refusal check-slip issued by the third respondent in registering the sale deed presented by the petitioner.

2. Heard both sides and perused the materials placed on record.

3. By consent of both parties, this writ petition is taken up for final disposal.

4. Since the very rejection order of the respondent is without application of mind, no counter is required. This Court has also elaborately dealt with this matter in *WP.No.11056 of 2024 dated 26.04.2024* in the case of *Subramani Vs. 1. The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration in WP.No.11056 of 2024* about the rejection.

5. The facts relating to this case is that one K.Kalidas is owner of the property. He sold the property to one R.K.Gopinath in the year 2001, vide sale deed dated 26.11.2001, in Document No.2158 of 2001. He, in turn, sold the property in the year 2004 to one C.Shanmugam, vide sale deed dated 08.04.2004, in Document No.835 of 2004. The petitioner has now purchased the property from the said C.Shanmugham.

6. It is the case of the petitioner that C.Shanmugham had already filed a suit and also restrained any other sale deeds in respect of the same property.



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The decree is also in his favour. That being the position, when the said C. Shanmugham executed a sale deed in favour of the petitioner and the same was presented for registration before the Sub Registrar, Arani, Tiruvallur, the same has been rejected on the ground that as the other documents in respect of the same property have not been set aside, the document cannot be registered. Hence this writ petition.

7. It is relevant to note that the title of the predecessor/vendor is not in dispute. The same is clearly indicated in the order passed by the authorities herein. Any subsequent document which is registered will not convey any title to them. Even assuming that there are many transactions which took place in respect of the same property, the rights of the parties will be governed under Section 48 of the Transfer of the Property Act, i.e., the priority rights are to be decided only by the competent Civil Court and not by the Sub Registrar. When the rights of the parties are governed under Section 48 of the Transfer of the Property Act, title cannot be gone into by the Sub Registrar. Therefore, the third respondent refusing to register the document cannot be sustained in the eye of law.

8. Accordingly, the impugned order is set aside and the third respondent is directed to register the sale deed within a period of 15 days from the date of receipt of a copy of this Order.



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WEB COPY 9. With the above direction, this writ petition is disposed of. No costs.

05.06.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

1.State by Rep by Secretary to Govt,
Commercial Taxes and Registration Dept.
Fort. St.George, Chennai 600 009.

2.Inspector General of Registration,
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3.The Sub – Registrar,
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N. SATHISH KUMAR, J.

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