



WEB COPY

W.A.No.1628 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No. 1628 of 2024
and
C.M.P.No. 11454 of 2024

K.Rathinavel

...Appellant

Vs.

1.Subramani

2.The Sub-Registrar,
Office of Sub-Registrar,
Rasipuram.

3.The Inspector General of Registration,
Chennai.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 26.04.2024 made in W.P.No. 11056 of 2024.

For Appellant : Mr.S.Varanesh

For Respondents : Mr.Ramanlal

Additional Advocate General for

Mr.L.S.M.Hasan Fizal

Additional Government Pleader for R2 & R3



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J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in the appeal is to the order of the Writ Court made in W.P.No.11056 of 2024 dated 26.04.2024, in and by which, the Writ Petition filed by the 1st respondent challenging the refusal check slip dated 05.04.2024 issued by the 2nd respondent, refusing to register the sale deed on the ground that an appeal against a preliminary decree in the suit for partition granted in favour of the Executant of the sale deed was pending and there is also stay of execution of the decree in the appeal.

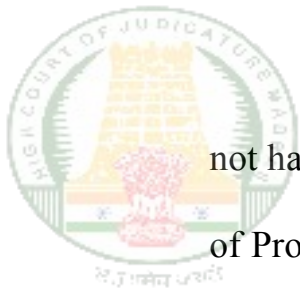
2.The learned single Judge had after referring to the provisions of the Registration Act, particularly, Rule 162 which lists out various circumstances under which a Registrar can refuse registration, concluded that the dispute regarding title to the property is not a ground for refusal of registration of a sale deed, except where the case falls within the four corners of Section 22-A of the Registration Act. On the said finding, the Writ Court allowed the Writ Petition directing registration of the instrument. Hence, this appeal.



3. The main contention of the learned counsel for the appellant is that the appellant was not made a party to the Writ Petition and he was not heard before the order was passed. The appellant was granted leave to file this appeal. We have heard the learned counsel for the appellant.

4. We find that there is no case for interference with the orders of the learned single Judge. The appellant has suffered a decree for partition and a challenge to the decree is pending in A.S.No.45 of 2018 on the file of the Additional District Judge (Mahila Court), Namakkal. It is also stated that an order for stay of all further proceedings pursuant to the preliminary decree has been granted in I.A.No. 2 of 2018. The Writ Court has extracted Rule 162 of the Registration Rules. Unless the appellant is able to bring the reason for refusal within any of the clauses enumerated under Rule 162 of the Registration Rules the registrar cannot refuse to register the instrument.

5. It is common knowledge that the Registration Act does not empower the Registrars to pronounce upon title to the property. Therefore, the Registrar cannot refuse registration on the ground that the Vendor does



not have title to property or the title of the Vendor is defective. The Transfer of Property Act which has been in force since 1882, for more than 140 years, which is a substantive law regarding the transfer of immovable property does not contemplate an enquiry into title at the time of registration of the instrument.

6. In the case on hand, there is a preliminary decree of a competent Civil Court, declaring entitlement of the Vendor of the petitioner in the Writ Petition namely, the 1st respondent herein. Of course, further proceedings pursuant to a decree have been stayed. Hence, we see no merit in the appeal. This Writ Appeal is therefore, dismissed. No costs.

(R.S.M., J.) (R.S.V., J.)
30.07.2024

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Internet: Yes / No

Index: Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No



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To:-

- 1.The Sub-Registrar,
Office of Sub-Registrar,
Rasipuram.
- 2.The Inspector General of Registration,
Chennai.



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and
R.SAKTHIVEL, J.

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