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W.P.No.14784 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

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M/s.G.Iniyazh,
D/o.Mr.Gurukeshav Kumar,
Represented by her mother and natural guardian,
Mrs.S.Keerthan,
Residing at
Flat No.5B, 5th Floor, Antrix Apartments,
Shri Balaji Promoters, Thindal,
Erode District – 638 012.

...Petitioner

-Vs-

1.The Inspector General of Registration,
Tamil Nadu Registration Department,
No.100, Santhome High Road,
Chennai – 600 028.

2.The Sub-Registrar,
Anna Nagar Sub-Registrar's Office,
situated at Nolambur,
Mogappair (West),
Chennai – 600 037.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the second respondent herein culminating in the impugned refusal check slip vide refusal No.RFL/Anna



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Nagar/58/2024 dated 23.05.2024 pertaining to sale deed dated 23.05.2024 presented by the petitioner for registration in respect of the property namely all that piece and parcel of 540/7200 Sq.ft of undivided share of land bearing Plot No.4675-A, Block No.1 D, New Door No.89, Old Door No.AA-13, 2nd Avenue, Anna Part, T.S.No.117, Block No.1D, Naduvangarai Village together with building measuring an extent of 669.15 Sq.ft of the middle portion of the 2nd floor including 1/3rd share in the 5 feet common passage and quash the same and consequently direct the second respondent herein to complete the registration of the sale deed dated 23.05.2024, within the time frame as may be stipulated by this Court and pass such further orders.

For Petitioner : Mr.M.Santhanaraman

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent and direct the second respondent to complete the registration of the sale deed dated 23.05.2024 executed by the petitioner.

2. It is the case of the petitioner that the petitioner's father Mr. K.Gurukeshav Kumar has settled his life interest in the subject property in favour of his only daughter G.Iniyazh over the property namely all that



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piece and parcel of 540/7200 sq. ft. of undivided share of land bearing Plot No.4675- A, Block No.1 D, New Door No.89, Old Door No.AA- 13, 2nd Avenue, Anna Nagar, Chennai 40, comprised in Old Survey No.6 part and 7 part, T.S.No.117, Block No.1 D, Naduvangarai Village together with building measuring an extent of 669.15 sq.ft., of the middle portion of the 2nd floor including 1/3rd share in the 5 feet common passage under settlement deed dated 10.01.2022 Document No.139 of 2022 on the file of SRO, Anna Nagar and thus his daughter Iniyazh has acquired absolute right over the subject property with full power of alienation. The petitioner presented the said sale deed for registration before the second respondent herein on 23.05.2024 after paying the stamp duty and registration charge. However, the second respondent herein has refused to register the same by alleging that since the subject property has been acquired by the minor, the same cannot be sold by the guardian without permission of the Court until the minor attains the age of majority and accordingly issued a refusal check slip bearing No. RFL/Anna Nagar/58/2024 dated 23.05.2024. Challenging the said refusal check slip, the petitioner has filed the present writ petition before this Court.



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3. Learned counsel for the petitioner submitted that the second respondent has refused to register the sale deed on the ground that the property is owned by minor. As there is no bar under the Registration Act to register the minor property through the natural guardian. The learned counsel further submitted that the sale of the property belonging to the minor is not void and it is voidable, at the instance of the minor. When the parties are entering into a contract knowing very well about the provision of law and taking risk. The registering authority cannot impose a condition to the petitioner to obtain a permission from the concerned Court.

4. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice on behalf of the respondents.

5. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing on behalf of the respondents and perused the materials available on record.

6. It is an admitted fact that the petitioner is the minor and she is an absolute owner of the subject property. On behalf of the petitioner, her



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mother being a natural guardian, had executed a sale deed. It is also an admitted fact that when the sale deed is presented for registration, the second respondent has refused to register same on the ground that she has to obtain a permission from the Court to sell the minor's property. According to the petitioner, the Registrar has no power to refuse to register the document.

7. For better appreciation, **Section 19-A of the Registration Act** is extracted hereunder:

19-A. Refusal to register- Notwithstanding anything contained in this Act, the registration officer shall refuse to register any document presented to him for registration unless such document is accompanied by a true or photostat copy thereof

7.a. **Section 20 of the Registration Act** deals *power of refusal where the documents containing interlineations, blanks, erasures or alterations etc.,*

A perusal of Section 21 of the Registration Act would show that the only ground on which registration can be refused is if the document does not contain a description of such property sufficient to identify the same.



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7.b. Whereas in the present case, the document has been executed by the father as a guardian of the minor and there were sufficient details available to identify the property. Though it appears to be a minor's property, it is relevant to extract Section 8 of the Hindu Minority and Guardianship Act, 1956 (hereinafter referred to as 'The Act'):

8. Powers of natural guardian.- *(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.*

Section (2) shows that the natural guardian shall not, without the previous permission of the court,- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise any part of the immovable property of the minor or (b) lease any part of such property for a term exceeding five years or for a term.

Section 8(3) makes it clear that any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2), is voidable at the instance of the minor or any person claiming under him.



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8. Therefore, the sale of the property belonging to the minor is not totally prohibited. Such sale is only voidable at the instance of the minor after attaining majority and such sale be ignored within a period of three years, after she attained majority. Such being the position, merely because the Court permission is required under Section 8(2) of the Act that very document itself cannot be refused to be registered.

9. Such view of the matter, it is risk of purchaser dealing with such property without permission from the Court as required under Section 8 of the Act. Such being a position, since the sale of any property belonging to minor is only voidable as the issue is between the purchaser and the seller, Registrar has no power to refuse to register such document.

10. Such view of the matter, the registering authority cannot refuse to register the document and accordingly, the impugned order passed by the second respondent is set aside and the second respondent is directed to entertain the sale deed which was executed by the petitioner, after receipt of necessary stamp duty and registration charges.



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J.SATHYA NARAYANA PRASAD, J.

In the result, **the writ petition stands allowed with the above observation and direction.** No costs.

10.06.2024

cda

Index : Yes/No

Speaking/Non Speaking order

NOTE: Issue order copy by 12.06.2024

To

1.The Inspector General of Registration,
Tamil Nadu Registration Department,
No.100, Santhome High Road,
Chennai – 600 028.

2.The Sub-Registrar,
Anna Nagar Sub-Registrar's Office,
situated at Nolambur,
Mogappair (West),
Chennai – 600 037.

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