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WP.No.21466 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **30.07.2024**

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.21466 of 2024

K.S.Shanmugam

.. Petitioner

Versus

1. The Inspector General of Registration,
100, Santhome High Road, Mylapore, Chennai – 600 028.

2. The Sub Registrar, Sub Registrar Office,
Vellakovil, Tiruppur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Refusal Check Slip issued by the second respondent in RFL/Vellakovil/12/2024 dated 04.07.2024 and quash the same and consequently direct the second respondent to register the Mortgage Deed dated 04.07.2024 presented by the petitioner for registration within a time frame that may be fixed by this Court.

For Petitioner : Mr.K.S.Jayaganesan
for Mr.Naveneetha Krishnan

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader



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ORDER

With the consent of both sides, this Writ Petition is taken up for disposal at the admission stage itself.

2. Challenging the impugned proceedings of the second respondent in RFL/Vellakovil/12/2024 dated 04.07.2024 refusing to register the Sale Deed presented for registration and consequently direct the second respondent to register the Mortgage Deed dated 04.07.2024 in accordance with law within the time frame fixed by this Court, the present Writ Petition has been filed.

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. It is the case for the petitioner that he is having 1/3rd undivided share in the subject property. As the petitioner decided to avail loan and he mortgage his share of the property with one Anandakumar and presented the mortgage deed for registration, the same was refused to be registered on the ground that two protest petitions have been given. Challenging the same, the



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present Writ Petition has been filed.

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5. As the very impugned Order itself is against the settled position of law, no counter is required. It is relevant to note that as far as registration is concerned, the title cannot be decided by the Sub Registrar. Rights of parties will be governed based on the their title and the earlier documents. In such view of the matter, merely on the basis of some protest petition, the document cannot be refused to be registered. This aspect has been elaborately dealt by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]*** wherein it has been held as follows :

“In a judgment of this Court in the case of *Abdullasa v Inspector General of Registration* reported in 2021 2 CWC 451, this Court held that the Registrar cannot refuse to register the document on the basis of objections raised by a rival claimant, who has a different source of title. Similarly, the Hon'ble Apex Court in the case of *Satya Pal Anand v. State of M.P.*, reported in (2016) 10 SCC 767 has held that an enquiry into the title of the executant is beyond the powers of the Sub-Registrar. Therefore, in view of the law declared in this regard,



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merely on the ground of protest petitions and objections raised
by some third party, the document cannot be refused to be
registered.”

In view of the above settled position of law, the documents cannot be refused
to be registered on the basis of a protest petition. Hence, the impugned Order
has to be quashed.

6. Accordingly, this Writ Petition is allowed and the impugned
Order passed by the second respondent dated 04.07.2024 is quashed and the
second respondent is directed to register the mortgage deed dated 04.07.2024
presented by the petitioner within a period of fifteen days from the date of
receipt of a copy of this Order. No costs.

30.07.2024

vrc

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

To,

1. The Inspector General of Registration,
100, Santhome High Road, Mylapore, Chennai – 600 028.
2. The Sub Registrar, Sub Registrar Office,
Vellakovil, Tiruppur District.



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N. SATHISH KUMAR, J.

vrc

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