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W.P.No.22162 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.22162, 22167 & 22169 of 2024
& W.M.P.Nos.24143, 24146 & 24148 of 2024

- 1.D.Rajamani
- 2.C.Hemasundari Bakyavathi
- 3.C.Elangovan
- 4.C.Manimehalai
- 5.J.Samuel Ponnaiah

.. Petitioners in
all W.Ps

Versus

The Sub Registrar,
Sendamangalam SRO,
Sendamangalam,
Namakkal District.

.. Respondent in
all W.Ps

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Refusal Check Slips in RFL/Sendamangalam/58/2024, RFL/Sendamangalam/60/2024 and RFL/Sendamangalam/59/2024 dated 18.07.2024 passed by the respondent, quash the same and consequently, direct the respondent to register the sale deeds dated 18.07.2024 presented by the petitioners in respect of 92 cents



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(40075sq.ft.), 13 ½ cents and 1.20 acres comprised in S.F.No.17/1, Bommasamuthiram Village, Sendamangalam Taluk, Namakkal District.

For Petitioner : Mr.N.Manoharan
For Respondent : Mr.P.Anandhakumar,
Government Advocate

COMMON ORDER

Challenge has been made as against the Refusal Check Slips in RFL/Sendamangalam/58/2024, RFL/Sendamangalam/60/2024 and RFL/Sendamangalam/59/2024 dated 18.07.2024 passed by the respondent, refusing to register the sale deeds dated 18.07.2024 presented by the petitioners in respect of 92 cents (40075sq.ft.), 13 ½ cents and 1.20 acres comprised in S.F.No.17/1, Bommasamuthiram Village, Sendamangalam Taluk, Namakkal District.

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

3.By consent of both parties, this main writ petitions themselves are taken up for final disposal.

4.It is the case of the petitioners that an extent of 2.98 acres in S.F.No.17/1, Bommasamuthiram Village, Sendamangalam Taluk, Namakkal



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District, belongs to Salem District Tamil (Strict) Baptist Trust Society. The Chairman, Secretary and Treasurer of the Society had executed a sale agreement in the name of fifth petitioner and late Chinnathambi, who is the father of petitioners 1 to 4, however, the vendor did not come forward to execute the sale deed, the purchasers have filed O.S.No.565 of 2000 against the Salem District Tamil(Strict) Baptist Trust Society for specific performance and the said suit was decreed. Thereafter, the purchasers have filed E.P.No.140 of 2001 to execute the sale deed. The learned Principal District Munsif, Namakkal had passed an order in E.P.No.140 of 2001 on 11.03.2002 to execute the sale deed and had also executed a sale deed(document No.1846/2002) dated 10.04.2002 on the file of the respondent. Pursuant to the sale deed dated 10.04.2002, the 5th petitioner and the father of petitioners 1 to 4 viz., late Chinnathambi had executed various sale deeds. Thereafter, Chinnathambi died on 22.01.2022 leaving behind his wife, two daughters and one son as legal representatives. They have executed a sale deed dated 18.07.2024 in the name of one Venkatesh Prabhu in respect of 92 cents(40075sq.ft.,) for a valid sale consideration and when the subject document has been presented for registration by the legal heirs, the respondent had issued the impugned refusal check slip dated 18.07.2024



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contending that the subject property belongs to a religious institution as per revenue records and no patta has been produced to prove their right over the property.

5.As the very impugned order itself is against the position of law and clear non application of mind, no counter is required.

6. The refusal order is proceeded, as if, the property is of the religious institution, citing the circular orders of the Inspector General of Registration. The said Registrar has not even understood the difference between the religious property and societies property. The property has been held by the private Trust registered as society. The society, in fact, dealt a property by way of an agreement for sale, which culminated into a decree for specific performance in O.S.No.565 of 2000. Later, in the execution proceedings in E.P.No.140 of 2001, the Execution Court has passed an order dated 11.03.2002 to execute a sale deed. When such being the position, the question of rejecting the valid sale without registering the document does not arise at all.



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7. In this regard, it is relevant to note that a Division Bench of this Court in W.A.No.2174 of 2024 vide judgment dated 22.07.2024 has held as follows:

“7...It is relevant to note that Once a Civil Court passes a decree, be it exparte or otherwise, it is a valid decree until it is set aside. In *Vijay Singh Vs. Shanti Devi and Another* reported in (2017) 8 SCC 837, the Hon'ble Supreme Court held as follows:-

*"12. We are only concerned with clause(a), which provides that if summons are duly served and the defendant does not put in appearance, the court may make an order that the suit would be heard exparte. In this case, this was the procedure followed and an exparte decree was passed. **There is no manner of doubt that an exparte decree is also a valid decree. It has the same force as a decree which is passed on contest. As long as the exparte decree is not recalled or set aside, it is legal and binding upon the parties.**"*

(emphasis applied)

The power to set aside a decree, be it exparte or collusive or fraudulent is only vested in a competent Civil Court. To vest these powers with the Registering Officers will elevate them as extra constitutional authorities who have a right to determine the validity of a Civil Courts decree. Neither the constitutional scheme nor the legislative scheme permits such invasion into the powers of the Courts.



8. We are therefore, convinced that the direction issued by the learned single Judge in W.P(MD).No.5955 of 2014 extracted above has to be overruled and accordingly, the said judgment is over ruled. We make it clear that if a decree of a Court is presented, a Registrar will have to register it without launching upon any further enquiry. We therefore, set aside the direction contained in Clause - 5 of the circular dated 27.02.2023 also.

9. When this case came up on the condonation of delay stage, we had issued notice to the Inspector General of Registration requiring him to appear, since we were of the view that such an invasion into the powers of the Civil Court will amount to interference with the judicial process as well as dispensation of justice. We had also sought for an explanation from him as to why proceedings for contempt should not be initiated against him, since the circular dated 27.02.2023 amounted to interference in the course of justice. After receipt of the said notice, the Inspector General of Registration has issued another circular on 11.07.2024 wherein, it is stated that the circular dated 27.02.2023 was issued pursuant to the directions made by this Court in W.P.No.5955 of 2014.

10. The judgment in W.P.(MD)No.5955 of 2014 is dated 27.07.2016 and the circular was issued only on 27.02.2023, after about 7 years. Even in the second circular dated



11.07.2024, the Inspector General of Registration has only stated that Registering Officer *should not refuse registration only on the ground that it is an ex parte decree*. Even this circular does not, in our considered opinion, satisfy the requirements of law. Once a decree of a Civil Court, validly passed, is produced before the Registrar for registration, he is bound to register it without raising any query regarding its validity. It is fundamental principle of law that a decree is binding only on the parties to it and no third party right could be affected by registration of the said decree.

11. Even if a person is aggrieved by a decree, it is open to him to have it set aside in the manner known to law. We cannot merely because there is a possibility of some person colluding and obtaining a decree permit usurpation of the powers of the Civil Court by the Registrars who have no right to question the decrees of Civil Court. Hence, this Writ Appeal is **dismissed** as frivolous, motivated and made only with an intention of harassing the presentant of the decree.”

8. A careful analysis of the judgment cited above would make it clear that once a decree of a Civil Court, validly passed, is produced before the Registrar for registration, he is bound to register it and he cannot



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question the decree or go beyond the decree. It is fundamental principle of law that a decree is binding only on the parties to it and no third party right could be affected by registration of the said decree. In such view of the matter, the impugned refusal check slip dated 18.07.2024 stands quashed and the respondent is directed to register the sale deed presented for registration on 18.07.2024 within a period of one week from the date of receipt of a copy of this order.

9. In view of the above, these writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

02.08.2024

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

To

The Sub Registrar,
Sendamangalam SRO,
Sendamangalam,
Namakkal District.



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N. SATHISH KUMAR, J.

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