



W.P.No.27061 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 27061 of 2024

1.Mohamed Salim A

2.Zaithoon Beevi

...Petitioners

Vs.

1.The Sub Registrar
Purasawalakam,
Chennai.

2.M.Vasudeva Pillai Trust
38/24, Thandavan Street,
Purasawalkam,
Chennai - 600 007.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned refusal slip dated 30.07.2024 bearing refusal no RFL / Purasaivakkam / 80 / 2024 issued by the 1st respondent, quash the same and consequently direct the 1st respondent



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to register the sale deed dated 19.07.2024 without insisting on the no objection certificate from the 2nd respondent.

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For Petitioner : Mr. M.S.Seshadri
For Respondent 1: Mr. C.Sathish
Government Advocate.
For Respondents 2: No Appearance.

ORDER

Aggrieved by the order passed by the 1st respondent refusing to register the sale deed executed by one Shanthi, in favour of the petitioners herein, the Writ Petition has been filed. The brief facts are as follows.

2. The land in respect of which the Writ Petition is filed belonged to the 2nd respondent trust. One Gnanasundaram Pillai had taken on lease the property bearing Old Door No.4, New Door No.5, Bakthavachalam Street, Purasawalkam, Chennai, from the 2nd respondent and had put up super structure thereon. On his death, the



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property devolved on his widow, Muthu Kannammal.

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3. The said Gnanasundaram Pillai and Muthu Kannammal were not blessed with any issues. After the death of Muthu Kannammal, the property reverted back to the legal heir of Gnanasundaram Pillai, one Arunachalam Pillai, the grand son of Gnanasundaram Pillai's brother.

4. The said Arunachalam Pillai filed O.S.No.7275 of 1971, against one Thangavelu and Ezhumalai, who were sons of Muthu Kannammal's brother, on the file of the City Civil Court, Chennai, for a declaration. The suit was decreed in his favour on 02.01.1974. The said Arunachalam Pillai had entered into an arrangement with one Velayutham Pillai, the grand son of Arunachalam Pillai, who was the son of Arunachalam Pillai's pre-deceased daughter, on 11.07.1996 and conveyed half share in the subject property to him. After his demise, his wife and son had sold their lease hold rights on the land together with superstructure to one B.Shanthi under a registered sale deed dated 06.03.2007.



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5. It is also stated that it was Velayutham, who had settled the mortgage loan taken by Arunachalam Pillai. It appears that Arunachalam Pillai had executed another settlement deed in favour of one C.Lakshmanan, by stating that on the death of Velayutham, the beneficiary under the settlement deed dated 17.08.1979, the property would revert back to him.

6. This constrained the legal representatives of the said Velayutham to file a suit in O.S.No.6463 of 1993, on the file of the V Assistant City Civil Court, Chennai, against Arunachalam Pillai and Lakshmanan. Pending the suit, Arunachalam Pillai passed away and his legal representatives were brought on record. The suit was ultimately decreed in favour of Padmavathy and Purushothaman, legal representatives of Velayutham by the Judgement and Decree dated 09.02.2001. Therefore, the title of Padmavathy and Purushothaman was confirmed. Their sale in favour of Shanthi was therefore a valid sale.



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7. The petitioners have now agreed to purchase the super structure along with the lease hold rights on 19.07.2024. A sale deed for an extent of 650 sq.ft., was presented for registration. The same was returned on the ground that since the land belonged to the 2nd respondent “*no objection certificate*” should be obtained from them. Therefore, the petitioners are before this Court.

8. Heard the learned counsels on the either side and perused the records.

9. The petitioners are not purchasing the land but are purchasing the superstructure along with the lease hold rights with reference to the subject land. The earlier documents in favour of Gnanasundaram Pillai, settlement deed in favour of Velayutham, sale deed in favour of Shanthi etc., have been registered by the 1st respondent without any demurrer. Now the 1st respondent would contend that they cannot claim a right to the land which belongs to the trust.



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10. The 2nd respondent Trust though served has failed to enter appearance. Therefore, this Court had directed the petitioners to submit an affidavit that they would be ready to enter into a lease with the 2nd respondent and pay rents to them. The said affidavit has been filed.

11. The 2nd respondent is the owner of the land and the superstructure belongs to the said Shanthi, from whom the petitioners are purchasing the property.

12. Therefore, taking into account the earlier transaction in respect of the very same property, which have all been registered by the 1st respondent, the impugned refusal check slip is quashed and the 1st respondent is directed to register the sale deed within a period of 2 weeks of its presentation.



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13. Further, the petitioners are directed to present an affidavit of undertaking filed now into the Court along with the sale deed while re-presenting the sale deed. In the affidavit of undertaking filed before this Court, the petitioners undertaken as follows:

“We, as the petitioners undertake that we are ready to enter into a lease deed with the 2nd respondent Trust i.e., Landlord and pay the agreed rents to the 2nd respondent Trust.”

14. In the result, the Writ Petition is allowed with the above directions. No costs.

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Index : Yes/No
Internet : Yes/No
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1.The Sub Registrar
Purasawalakam,
Chennai.



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P.T. ASHA, J,

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