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W.P. No. 27638 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 25.09.2024
CORAM**

THE HONOURABLE MR. JUSTICE S.SOUNTAR

W.P. No.27638 of 2024

K.Venkatachalam

..Petitioner

Vs.

The Sub-Registrar
Onnappagoundana Halli
Dharmapuri West

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling the records of the respondent vide Refusal check slip No.RFL/Dharmapuri west/117/2024 dated 30.8.2024 and quash the same as illegal and arbitrary and further direct the respondent to register the document produced by the petitioner pertaining to the property bearing survey No. 142/5B,measuring to an extent of 70 cent situated at Onnappagounana Halli village, Dharmapuri District.

For Petitioner

:Mr.G.Mohammed Aseef

For Respondent

: Mr.M.Shahjahan
Special Government Pleader



ORDER

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By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned refusal slip issued by the respondent refusing to register the sale deed executed by the petitioner, he has come before this Court by way of this writ petition.

3. It is the case of the petitioner that 70 cents of land in Survey No.142/5B at Onnappagounana Halli Village, Dharmapuri District originally owned by one Subramani having purchased the same under sale deed dated 21.06.2000. The petitioner entered into a sale agreement with the said Subramani for purchase of the above mentioned property. The petitioner's vendor failed to execute the sale deed as per the agreement. Therefore, the petitioner was constrained to file a suit for specific performance in O.S.No.16 of 2019 on the file of Sub-Court, Dharmapuri. The said suit was decreed on 04.06.2019. Thereafter, the petitioner filed an execution petition in EP.No.12 of 2020 on the file of Sub-Court, Dharmapuri and got the sale deed executed in



his favour through Court in Document No.6594 of 2023 dated 12.12.2023.

Now, the petitioner wants to sell the property in favour of one Kutti and another. When the sale deed executed by the petitioner was presented for registration, the respondent issued impugned refusal slip on the ground that the total extent available in Survey No.142/5 is 1 acre and 15 cents, but the total extent of property sold under various sale deeds reflected in the Encumbrance Certificate in Document Nos.92/1995, 1827/1999 and 1355/2000 would exceed the total extent available in Survey No.142/5.

4. When the above mentioned documents were registered before the Court, there was no objection by the respondent. Subsequently, based on the Document No.1355 of 2000, the petitioner filed a specific performance suit against the purchaser under Document No.1355 of 2000 and obtained specific performance decree. The sale deed registered as Document No.6594 of 2023 was executed by the Court in favour of petitioner. Even at that point of time, there was no objection by the respondent. Therefore, the objection raised by the respondent when the petitioner presented a document for registration would amount to going to the question of title which is impermissible. In this



regard, reference may be had to the following observation of Hon'ble Apex

Court in ***Satya Pal Anand Vs State of Madhya Pradesh and Others reported***

in 2016(10) SCC 767 =MANU/SC/1359/2016, which reads as follows:-

*“28. Section 35 of the Act does not confer a quasi-judicial power on the Registering Authority. The Registering Officer is expected to reassure that the document to be registered is accompanied by supporting documents. He is not expected to evaluate the title or irregularity in the document as such. The examination to be done by him is incidental, to ascertain that there is no violation of provisions of the Act of 1908. In the case of **Park View Enterprises** (supra) it has been observed that the function of the Registering Officer is purely administrative and not quasi-judicial. He cannot decide as to whether a document presented for registration is executed by person having title, as mentioned in the instrument. We agree with that exposition”.*

Therefore, the impugned refusal slip is set aside and the writ petition stands allowed.



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5. The petitioner is directed to represent the document before the respondent within a period of two weeks from the date of receipt of copy of this order. The respondent shall register the same if it is otherwise in order. No costs.

25.09.2024

Index : Yes/No
Neutral Citation : Yes/No
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To
The Sub-Registrar
Onnappagoundana Halli
Dharmapuri West

S.SOUNTHAR, J.

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