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W.P.No.29749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.29749 of 2024

E.Varadharajan

...Petitioner

Vs.

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome Highroad,
Pattinapakkam, Santhome,
Raja Annamalaipuram, Chennai 600 028.
2. The Sub-Registrar,
Office of Sub-Registrar,
Thiruvilankaadu, Thiruvallur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Refusal Slip issued by the second respondent in "RFL/Thiruvallankaadu/40/2024" dated 02.09.2024 and quash the same as illegal, arbitrary and non est in law and consequently, direct the second respondent to register the Sale Deed dated 02.09.2024 within a reasonable time period stipulated by this Court.

For Petitioner : Mr.M.Guruprasad
for Mr.S.Santosh

For Respondents : Mr.B.Vijay
Additional Government Pleader



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ORDER

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Aggrieved by the impugned Refusal Check Slip bearing Refusal RFL/Thiruvallankaadu/40/2024 dated 02.09.2024 issued by the second respondent refusing to register the Sale Deed in favour of the petitioner, the petitioner has come by way of this writ petition.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader taking notice for the respondents 1 and 2 and also perused the documents enclosed in the typed set of papers.

3. According to the petitioner, he wants to purchase the property belonging to "Besant Educational Cultural Society". A sale deed was executed by the Secretary of the said Society on 23.07.2024. The subject property was originally purchased by the Society represented by one Radhakrishnan Naidu under registered sale deed dated 14.12.2001. Now, the very same Radhakrishnan Naidu executed the sale deed in favour of the petitioner on 23.07.2024. However, the second respondent refused to register the said document on the following grounds:-

(i) The petitioner failed to produce the members' list of the Society.



(ii) The unanimous decision was not clear in the resolution submitted by the petitioner.

(iii) The President of the society is no more

(iv) The registration of the society has not been renewed.

4. In the year 2001, the very same property was purchased by the Society represented by Radhakrishnan Naidu in his capacity as Secretary. Now, the very same person in the capacity of the Secretary of the Society, executed the sale deed in favour of the petitioner. The validity of resolution is a matter between the members of the Society and the Secretary, who executed the sale deed and the registering authority need not go into the validity or otherwise of the resolution passed by the General Body of the society. In fact, unanimous resolution passed by the executive committee members was also filed along with the sale deed. If the Secretary of the Society has power to deal with the property of society as per bye laws of society, there may not be any impediment for the respondents to register the document. There is nothing to suggest that the second respondent has taken any action against the Society by issuing notice under section 37 of the Tamil Nadu Societies Act for its alleged failure to comply with provision of Societies Registration Act. In such circumstances, the impugned order passed by the second respondent is liable to be quashed.



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5. Accordingly, this writ petition is allowed by setting aside the order dated 02.09.2024 passed by the second respondent. The petitioner is directed to re-present the document within two weeks from the date of receipt of copy of this order, along with bye-laws of the society empowering the Secretary of the society to execute sale deed on behalf of society. The second respondent shall register the same if the document is otherwise in order. No costs.

04.10.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome Highroad,
Pattinapakkam, Santhome,
Raja Annamalaipuram, Chennai 600 028.
2. The Sub-Registrar,
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S. SOUNTHAR, J.

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