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W.P.No.31940 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09..07..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.31940 of 2022

and

W.M.P.No.31385 of 2022

Senthilvadivu

..... Petitioner

-Versus-

1.The Sub Registrar,
Harur, Dharmapuri District.

2.M.Monica

[2nd respondent was impleaded as per order of this court
dated 12.09.2023 made in W.M.P.No.605 of 2023]

..... Respondents

Petition filed under Article 226of the Constitution of India, praying to issue a *Writ of Certioarified Mandamus* calling for the records pertaining to the Refusal Check Slip issued by the 1st respondent in refusal No.RFL/Harur/272/2022 dated 07.11.2022 and to quash the same as illegal, incompetent and ultra-vires and consequently direct the respondent to register the sale deed dated 07.11.2022.

For Petitioner : Mr.J.Pradeep

For Respondent (s) : Mr.Stalin Abhimanyu for R1

Mr.P.Muthusamy for R2



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ORDER

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2. The petitioner claims to be the absolute owner of the property comprised in S.No.188/2 measuring an extent of 9 cents situated at Paraiyapatti Village, Pappireddipatty Taluk, Dharmapuri District, having purchased it from one Moniika through a registered sale deed dated 25.06.2021 vide Doc.No.2608/2021 on the file of the Sub Registrar, Harur. Even since the date of purchase, she has been using the property as a track to reach her land. She and her legal heirs have been given a right to use the cart track to take heavy vehicles and to take electricity connections on the property. She has been using the road since 25.06.2021 and she has an absolute right to enjoy the cart track. She intended to sell the property to one Senthilnathan. When she presented a sale deed for registration on 07.11.2022 in favour of Senthilnathan, the 1st respondent refused to register the sale deed by refusal check slip dated 07.11.2022 on the ground that there was no right given to her to transfer the property to third parties in the registered sale deed Doc.No.2608/2001 dated 25.06.2011. It is this order that is under challenge in the present writ petition.



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3. No counter affidavit filed by the 1st respondent-Sub Registrar. The 2nd respondent has also not filed any counter affidavit.

4. Heard Mr.J.Pradeep, learned counsel for the petitioner and Mr.Stalin Abhimanyu, learned Additional Government Pleader for the 1st respondent and also perused the records carefully.

5. Mr.P.Muthusamy, the learned counsel appearing for the 2nd respondent opposed the writ petition contending that the 2nd respondent is an adjoining land owner of the petitioner and that a civil suit filed by the 2nd respondent in O.S.No.22 of 2022 for declaration and injunction is pending on the file of the Subordinate Judge, Harur, and pending such suit, the petitioner decided to sell the subject land to third parties claiming pathway right on the 2nd respondent's land. In those circumstances, she gave a protest petition before the Sub Registrar concerned opposing registration of sale. The petitioner should not be allowed to create any third party interest in respect of the subject property. The order of the 1st respondent refusing registration by way of impugned refusal check-slip does not require any interference at the hands of this court.

6. The refusal check-slip was issued mainly on the ground that a protest petition has been filed stating that the petitioner is trying to sell his right over a



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pathway.

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7. Admittedly, the property, which is the subject matter of the sale deed sought to be registered, was purchased by the petitioner from the 2nd respondent. It seems that the 2nd respondent, the vendor of the petitioner gave a protest petition opposing the registration of the transfer of property by the petitioner to one Senthilnathan. Whether the property sought to be transferred through a sale deed dated 07.11.2022 was saleable or whether it has to be retained and maintained as a cart track, pathway, or road are all matters to be looked into by some other forum. Merely based on some objections, the sub-registrar could not have refused to register the sale deed.

8. The issue on the subject has already been settled by this court this court in the case of **Subramani v. The Sub Registrar** [W.P.No.11056 of 2024 dated 26.04.2024] wherein this has held as under:

31. Now, this Court has to point out settled position of law in various aspects. With regard to the refusal slips issued on the ground of

(a)
.....

(b) refusal on the ground of title dispute, in a judgement of this Court in the case of *Abdullasa v*



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

9. In the light of the above legal position and the facts and circumstances of the case, the writ petition succeeds. The impugned refusal check slip is quashed and the 1st respondent is directed to register the sale deed dated 07.11.2022 presented by the petitioner for registration within a period of one month from the date of receipt of a copy of this order and return the registered original deed forthwith to the petitioner.

This writ petition is allowed with the directions as indicated above. No costs. Consequently, WMP is closed.

Index : yes / no
Neutral Citation : yes / no
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To

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1.The Sub Registrar, Harur, Dharmapuri District.



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N.SATHISH KUMAR.J.,

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