



WEB COPY



W.P.No.32849 of 2024,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.32849 of 2024
and
W.M.P.No.35681 of 2024

Mr.N.Adhithan

... Petitioner

Vs.

1.The Sub Registrar

Kundrathur Sub Registrar Office, Chennai.

2.Mrs.K.Saritha

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for records relating to the respondents proceedings dated 30.09.2024 refusal to register the sale Agreement dated 01.07.2024 in RFL/KUNDRATHUR/45/2024 and quash the same and direct the respondent to receive the returned sale Agreement dated 01.07.2024 with respect to land situated at Kancheepuram District, Kundrathur Taluk, Kundrathu (Kundrathur B) Village, comprised in Old Survey No.410, New Survey No.410/2 Patta No. 12939 measuring to an extent of 59 cents and register the same.

For Petitioner

: M/s.Arun. G



WEB COPY

W.P.No.32849 of 2024.



For Respondents : M/s.M.Shahjahan, Special GP,
for R1.

ORDER

The Writ Petition is filed to call for the records relating to the 1st respondent's proceedings dated 30.09.2024 in and by which the 1st respondent had refused to register the sale agreement dated 01.07.2024 in RFL/KUNDRATHUR/45/2024, quash the same and direct the 1st respondent to receive the returned sale agreement dated 01.07.2024 with respect to land situate at Kancheepuram District, Kundrathur Taluk, Kundrathu (Kundrathur B) Village, comprised in Old Survey No.410, New Survey No.410/2 Patta No.12939 measuring to an extent of 59 cents and register the same.

2. The petitioner's grievance is that the agreement of sale dated 01.07.2024 which has been presented for registration before the 1st respondent has been returned with a refusal slip stating that both the petitioner and the 2nd respondent have not jointly presented the document for registration and that the same could be represented on complying with the return.

3. The learned counsel for the petitioner would submit that as per the



provisions of Section 36 of the Registration Act (herein after called as the "Act") a duty is cast upon the registering authority to summon the persons whose presence he requires to appear at the registering office. He would also submit that Section 36 of the Act sets out the procedure for requiring the attendance of an executant of a document. He would further submit that if the 1st respondent requires the presence of the 2nd respondent, he should exercise the powers conferred on him under Section 36 of the Act. He would submit that the refusal to register the document is without any legal basis.

4. Heard the counsel on either side.

5. Section 36 of the Act would read as follows:-

"36. Procedure where appearance of executant or witness is desired.—If any person presenting any document for registration or claiming under any document, which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such Officer or Court as the [State



Government] directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorised agent, as in the summons may be mentioned, and at a time named therein."

6. The only ground for refusing to register the agreement of sale is that both the petitioner and the 2nd respondent have not jointly presented the document for registration. A perusal of the provisions of Section 36 of the Act would indicate that where the registering authority requires the presence of an executant or witness, he should summon their presence. The 1st respondent herein could have well exercised the powers conferred on him under the aforesaid provisions without passing the impugned order.

7. In view of the above, the writ petition is allowed. The impugned order passed by the 1st respondent in RFL/KUNDRATHUR/45/2024 dated 30.09.2024 is set aside. The petitioner shall represent the agreement of sale dated 01.07.2024 within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent shall issue summons to the 2nd respondent to appear before him as prescribed under Section 36 of the Act. Once the 2nd respondent appears and admits the execution of the documents, the 1st respondent shall proceed to register the



W.P.No.32849 of 2024.

document. The 1st respondent is directed to complete the process within a period of 4 weeks from the date of receipt of a copy of this Order. No costs.

Consequently, the connected Miscellaneous Petition is closed.

08.11.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

The Sub Registrar

Kundrathur Sub Registrar Office, Chennai.



WEB COPY



W.P.No.32849 of 2024,

P.T. ASHA. J.,

(shr)

W.P.No.32849 of 2024

and

W.M.P.No.35681 of 2024

08.11.2024