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W.P.No.32857 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.32857 of 2024**

K.Sridhar

... Petitioner

**Vs.**

The Sub Registrar  
Gandhipuram Sub Registrar Office,  
Coimbatore District

...Respondent

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, Directing the respondent to accept the registration of the settlement Deed dated 09.10.2024 executed by the petitioner in favour of his wife Vijayasree in respect of property in Door No. 383, 383A, and 384, Survey No. 296/2 an extent of 896 1/2 Sq.fts in Maniyam Velappar Veethi, Sanganur Village, Coimbatore North Taluk Coimbatore district as per the Online Application No. TP / 197374060 / 2024 dated 09.10.2024, within the period as stipulated by this Honourable Court.

For Petitioner : M/s.D.Nellaiappan

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



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## **ORDER**

The Writ Petition is filed to direct the respondent to accept the registration of the settlement Deed dated 09.10.2024 executed by the petitioner in favour of his wife, Vijayasree in respect of property situate at Door Nos.383, 383A, and 384, Survey No. 296/2, measuring an extent of 896 1/2 Sq.fts in Maniyam Velappar Veethi, Sanganur Village, Coimbatore North Taluk, Coimbatore District as per the Online Application No.TP/197374060/2024 dated 09.10.2024.

2. The property bearing Door No.383, 383A, and 384, Survey No.296/2, measuring an extent of 896 1/2 Sq.fts in Maniyam Velappar Veethi, Sanganur Village, Coimbatore North Taluk, Coimbatore District originally belongs to one Chinnamal, sister of the petitioner's mother. Out of love and affection, the said Chinnamal had executed a gift settlement deed in favour of the petitioner's mother under a registered gift settlement deed dated 10.07.2020. Thereafter, the petitioner's mother had executed a registered gift settlement deed in his favour on 16.04.2024. Meanwhile, dispute arose between the petitioner and the said Chinnammal. The



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petitioner has also obtained an order of permanent injunction in suit O.S.No.408 of 2024, on the file of the District Munsif Court, Coimbatore, protecting his possession and enjoyment of the above property. It is in this background the petitioner has decided to settle the property in favour of his wife, namely, Vijayasree and has submitted the settlement deed before the respondent for registration. The respondent has neither registered the document nor rejected the same. Therefore, the petitioner is before this Court.

3. Heard the learned counsel on either side.

4. A division Bench of this Court in the judgement in ***P.Pappu Vs. The Sub Registrar in W.A.No.1160 of 2024*** had while dealing with a case where the Registering Authority had refused to register the document observed as follows:-

*"The law relating to transfer of immovable property is governed by the substantial enactment namely, The Transfer of Property Act, 1882. The right to hold property and the right to be not deprived of property without*



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*reasonable compensation is a constitutional right ensured under Article 300A of the Constitution of India. Being a constitutional right, it is one step superior to even the fundamental rights, as there cannot be a reasonable restriction on the said right and no one can be deprived of the property without reasonable compensation. The right to hold the property also takes in its fold the right to deal with the property."*

*"The fundamental principle of law relating to transfer of immovable property is caveat emptor. A buyer of the property is required to be careful in not purchasing certain properties which are already encumbered or from person who does not have title. Even if a person sells a property that does not belong to him, there is no provision in the Registration Act, 1908, to enable the Registrar to refuse registration except Section 22-A and Section 22-B, which have been introduced recently in the year 2022 by the State Legislature insofar as Tamil Nadu is concerned.*



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*Even Section 22-A and Section 22-B do not authorise refusal of registration on the ground that the original of the prior's title deed has not been produced."*

5. A Division Bench of this Court constituted to answer the reference as to whether once an agreement of sale is registered by the vendor subsequent documents in respect of the same property could be refused to be registered had extensively discussed the object of the Registration Act, the power of the Registering Authority to register documents, power of the Registrar to make any enquiry, scope of enquiry etc. The Division Bench had taken into consideration the various judgements rendered by the Hon'ble Supreme Court as well as our Court and observed as follows:-

*"18. Conspectus of the various provisions referred above make it clear that the Registering Officer cannot go into the title of the property in respect of which document is presented. However, under various provisions he has power to refuse to accept the document for registration unless mistakes found in the document are set right properly. Except Section 22-A of the Tamil Nadu Act, other*



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*provisions referred above do not give any power to the registering officer to refuse to register the document presented by the person executing documents. Rule 60 also states that the registering officer can only enquire about the executant and the claimant of the instrument of sale regarding whose identity he has to satisfy himself. But the provisions does not give absolute power to refuse registration. As already indicated above, the purpose and object of the Act is to give a public notice about any encumbrance in the immovable property.*

*19. It is also relevant to note that even when the document is undervalued and the Registrar registering the document has reason to believe that the market value of the property has not been truly set out in the document, he has to receive the document and refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon as per Section 47-A of the Stamp Act. Even on such ground also*



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*the Registrar has no right to refuse to register the document."*

6. Therefore, from the above discussion it is clear that the respondent cannot refuse to register the document in question as some of the grounds contemplated in Section 22-A of the Registration Act is present and neither is there any orders of Court impeding the registration of the same. This Court has time and again directed the registering authorities to refrain from refusing to register documents except for the reasons set out under the Registration Act. Therefore, a mandamus is issued directing the respondent to register the document within a period of 2 weeks from the date of representation of the document by the petitioner.

7. With the above directions, this Writ Petition is allowed. No costs.

**08.11.2024**

(shr)

Index : Yes/No

Speaking Order: Yes/No



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Neutral Citation : Yes/No

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To  
The Sub Registrar  
Gandhipuram Sub Registrar Office,  
Coimbatore District.



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**P.T. ASHA. J.,**

(shr)

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