



W.P.No.31578 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.31578 of 2024

&

W.M.P.No.34319 of 2024

S.Mohandoss

...Petitioner

Vs.

1.The Inspector General of Registration,
Office of Inspector General of Registration
Chennai.

2.The District Registrar,
Vellore.

3.The Sub-Registrar,
Kaniyambadi,
Vellore.

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus calling for the records relating to the refusal chéck slip RFL / KANIAMBADI / 49 / 2024 dated 11.09.2024 of the 3rd Respondent herein in respect of the sale deed dated 11.09.2024 in respect of the property of an extent of 820 Sq.ft. and other properties in New Survey No.47/4, Old survey No.82, Kaniyambadi Village, Vellore Taluk and quash the same and consequently direct the 3rd Respondent herein to register the properties in the said "Will" subsequently and release the sale deed.

For Petitioner : Mrs. A.L.Gandhimathi
Senior Advocate
For Mr. L.Palani Muthu

For Respondents : Mr. B.Vijay
Additional Government Pleader.



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ORDER

Challenging the refusal check slip issued to the petitioner refusing to register the sale deed on the ground that the demand is violative of Section 22 A of the Registration Act and the circular No.29945 dated 21.06.2017, the petitioner is before this Court.

2. It is the case of the petitioner that the property measuring an extent of 820 sq.ft., in New Survey No.47/4, Old survey No.82, Kaniyambadi Village, Vellore Taluk, belonged to his father S.Subramanian, who got the property in the partition amongst his family members in the year 1986 and by way of various purchases during his lifetime. He had executed an unregistered "Will" dated 10.06.2011 in respect of several properties owned by him. The "Will" was executed in favour of his four sons, two daughters and two grand sons. He passed away on 02.12.2016.



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3. The "Will" was probated by an order of the learned Principal District Judge, Vellore, in O.P.No.78 of 2020 dated 17.03.2021. Thereafter, the properties bequeathed under the "Will" were partitioned between brothers and sisters and each of them were in enjoyment and separate possession of their respective shares. Thereafter, two of the petitioner's brothers had executed a settlement deed in respect of their shares in S.No.47/4 in favour of the petitioner under a registered settlement deed dated 26.07.2023.

4. Before the probate of the "Will" the petitioner's father sold properties under a registered deed and after the probate the petitioner had sold an extent of 1066 sq.ft., in Doc.No.2019 of 2023. Likewise, the petitioner's brothers also sold two properties measuring 1014 sq.ft., 1066 sq.ft under a Doc.No.236/2022. The petitioner who was in need of money for his family expenses and educational expenses of children decided to sell the property in question and when the sale deed was presented it was rejected stating that there is a bar under Section 22 A



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of the Act.

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5. The properties have already been the subject matter of sale deeds as well as settlement deeds. However, the respondent would submit that the settlement deed in favour of the petitioner was in violation of Section 22 A of the Registration Act. Therefore, the sale deed in question has not been registered. Challenging the same, the petitioner is before this Court.

6. Heard the learned counsels on the either side and perused the records.

7. The learned Additional Government Pleader would submit that the provisions of Section 22 A (2) would apply since the property in question is an unapproved layout. Therefore, the refusal slip has been rightly issued. A perusal of proviso to Section 22 A (2) would clearly show that the Sub Registrar cannot refuse to register the document if in a previous document it has been described as an house site.



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8. Further, it is seen that even in the "Will" of the year 2011, the property have been described in the same fashion as it is in the sale deed in question. When the sale deed was executed Section 22 A had not been enacted. That apart, this Court has clearly held that the refusal can only be for the reasons set out in Section 22 A. The refusal in the instant case does not fall within the said category and therefore impugned refusal slip has to necessarily be set aside.

9. Another factor which has to be taken note of is that after the "Will", sale deeds have been executed by the petitioner as well as his brothers and they have been entertained and registered. The settlement deeds in favour of the petitioner have also been registered. Therefore, the refusal to register the sale deed is without any legal basis.



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10. The Writ Petition is allowed. The impugned order is set aside and direction is issued to the respondents to register the sale deed within a period of 2 weeks from which the sale deed that has been returned is re-presented by the petitioner. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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Chennai.

2.The District Registrar,
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3.The Sub-Registrar,
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P.T. ASHA, J,

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