



W.P.No.36046 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.36046 of 2024

Gobinath

... Petitioner

Vs.

1. The District Registrar,
Namakkal District.

2. The Sub Registrar,
Pallipalayam,
Namakkal District.

3. T.Shanmugam

4. M.Shanmugasundaram

5. T.Dharmasivam

6. Visalakshi

7. T.Arumugam

8. Kandhammal

9. Rajathi

10. M.Malliga

11. M.Shanmugasundaram



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12. M.Duraisamy

13. K.Amsaveni

14. M.Yogarathinam

15. K.Sengodan

16. N.Sellammal

17. R.Vasantha

18. R.Pushparaj

19. R.Krishnamoorthi

20. Pandurangan

21. Vasantha

22. Santhi

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Refusal Check Slip issued by the 2nd respondent herein in Refusal Number RFL/Pallipalayam/120/2024 Sub Registrar Pallipalayam dated 12.11.2024 and quash the same as illegal, arbitrary and violation of constitutional Right and consequently direct the 2nd respondent herein to accept, admit and register the interim injunction granted by this Hon'ble High Court CMP.No.9386 of 2019 in S.A.No.560 of 2019 to an extent of 25795 Sq.ft. comprised in R.S.No.335/5 and 335/7 in Pallipalayam Village, Tiruchengode Taluk, Namakkal District.



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For Petitioner : Mr.P.Dinesh Kumar
For R1 and R2 : Mr.M.Shahjahan
Special Government Pleader

ORDER

Mr.M.Shahjahan, learned Special Government Pleader takes notice on behalf of the 1st and 2nd Respondents.

2. This Writ Petition has been filed for a Certiorarified Mandamus to call for the records pertaining to the Impugned Refusal Check Slip issued by the 2nd respondent herein in Refusal Number RFL/Pallipalayam/120/2024 Sub Registrar Pallipalayam dated 12.11.2024 and quash the same as illegal, arbitrary and violation of constitutional Right and consequently direct the 2nd Respondent herein to accept, admit and register the interim injunction granted by this Hon'ble High Court CMP.No.9386 of 2019 in S.A.No.560 of 2019 to an extent of 25795 Sq.ft. comprised in R.S.No.335/5 and 335/7 in Pallipalayam Village, Tiruchengode Taluk, Namakkal District.



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3. The Petitioner's contention is that the subject property which is an extent of 25,795/- sq.ft., comprised in R.S.No.335/5 and 335/7 in Pallipalayam Village, Tiruchengode Taluk, Namakkal District belonged to the Respondents 3 to 6 and Mr.Tirumalai Gounder, who is the father of the Respondents 7 to 9 and Mr.Mani, who is the father of the Respondents 10 to 14. They had purchased the subject property under various Sale Deeds and thereafter, they had entered into an agreement of sale with the 15th Respondent and one Mr.K.A.Shanmugam, who is the father of the Respondents 20 to 22 on 15.07.1984, agreeing to sell an extent of 1,13,713 sq.ft., on a condition that the Sale Deed should be executed within a period of one year from the date of the agreement in the name of the 15th Respondent and the said Mr.K.A.Shanmugham and an advance amount of Rs.90,000/- should be paid to Mr.K.A.Shanmugham and the said Mr.K.A.Shanmugham and the 15th Respondent should put in possession of the property. Later the Respondents 3 to 6 and the said Mr.N.Tirumalai Gounder and the said Mr.Mani had executed a registered power of attorney in favour of one Muthusamy for selling plots in the subject property. Pursuant to this power, the said Muthusamy had executed Sale Deed to an extent of 65,430 sq.ft., in respect of third parties and had received the sale consideration and handed



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over the possession to them. Subsequently, it was found that though under the Sale Agreement 1,13,723 sq.ft., was agreed to be sold but only an extent of 1,08,961 sq.ft., was available. The balance extent of 17,826 sq.ft., was classified as government poromboke land. With reference to the remaining 29,065 sq.ft., the 15th Respondent and Mr.K.A.Shanmugham had executed a Sale Agreement in favour of the 16th Respondent N.Sellamal and Mr.M.Ranagasamy who is the father of Respondents 17 to 19 under two registered documents. 2025 sq. ft., was agreed to be sold to N.Sellamal and 27040 sq.ft., was agreed to be sold to Mr.M.Rangasamy. The Respondents 15-22 had filed the Suit in O.S.No.108 of 2008 on the file of the Sub Court, Tiruchengode, for specific performance of the Sale Agreement and to execute two Sale Deeds in favour of the Respondents 16 to 19 on 31.01.2012.

4. Challenging this Judgement and Decree, the Respondents 3 to 14 had preferred A.S.No.28 of 2012 on the file of the Additional District Judge, Namakkal. Pending the appeal, the Respondents 16 to 19 had transferred the rights that they had acquired in the Judgement and Decree in O.S.No.108 of 2008 in favour of the Petitioner under a registered Deeds of Decree made over dated 01.04.2013, 09.04.2013 and 11.04.2013



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respectively. Thereafter, the Petitioner had filed I.A.No.19 & 20 of 2017 to implead the Petitioner as a party in A.S.No.28 of 2012. The same was dismissed. However, the 1st Appeal was allowed by the lower Appellate Court by a Judgement and Decree dated 22.11.2018. Thereafter, based upon the assignment of the Decree, the Petitioner had filed S.A.No.560 of 2019 before this Court. The same was admitted. Along with the second appeal, the Petitioner had also filed an application for ad interim injunction in C.M.P.No.9386 of 2019 seeking an injunction against alienation. The injunction as prayed was granted on 12.04.2019 and which injunction order has not been revoked or set aside to date. Despite the order of injunction, the 5th Respondent was attempting to alienate the subject property to the third parties and to prevent this the Petitioner had given a letter of protest to the 2nd Respondent on 02.08.2019. However, the 5th Respondent is exerting pressure upon the 2nd Respondent to register the Deed. The 5th Respondent had approached the 2nd Respondent for registration but the 2nd Respondent refused the same seeking a NOC from the Revenue Divisional Officer. The Petitioner also learns that representation to this effect has been given to the Revenue Divisional Officer on 03.07.2024. In order to safe guard the property and to avoid the third parties interest, the Petitioner decided to



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register the ad interim injunction granted by this Court in C.M.P.No.9386 of 2019 which has resulted in the issue of the impugned refusal Slip. The document was returned based upon the orders passed by this Court in W.P.(MD).No.5955 of 2014 and by the letter issued by the 1st Respondent. The Petitioner thereafter made an enquiry and has found that the Letter dated 27.02.2023 issued by the 2nd Respondent does not apply with reference to registration of the Order. Therefore, the Petitioner has come forward with the above Writ Petition.

5. Section 17(2)(vi) of the Registration Act, 1908 would indicate that any decree or order of the Court except a Compromise Decree or Order compromising immovable property other than which is a subject matter of the suit proceedings need not necessarily be rejected. Registration is optional in such cases. However, once a Decree or Order is presented registering authority can refuse to register the same only on the ground that such Order or Decree has been modified or set aside. The letter that has been referred to in the impugned refusal check slip has already been set aside by the learned Single Judge of this Court in W.P.(MD).No.13439 of 2024. The Petitioner also set out the reasons for registering the injunction order since the private



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respondents are attempting to alienate the property despite orders of injunction. Therefore, the Writ Petition is allowed, the Refusal Check Slip is set aside and the registering authority is directed to register the same within a period of two (2) weeks from the date of its re-presentation. No costs.

27.11.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
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To
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1. The District Registrar,
Namakkal District.
2. The Sub Registrar,
Pallipalayam,
Namakkal District.



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P.T.ASHA, J.

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