



Order dated 23.02.2024
in W.P.No.36334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.36334 of 2023

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Thulasimani

.. Petitioner

Vs.

1. The Joint Registrar-II, Erode District.

2. Selvaraj

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records comprised in Refusal Number: RFL/1 Joint Sub-Registrar Erode/112/2023, dated 05.12.2023 passed by the first respondent, quash the same and consequently direct the first respondent to forthwith register the sale deed presented by the petitioner, dated 05.12.2023.

For petitioner : Mr.P.Muthukumarasamy

For respondents: Mr.U.Baranidharan, Addl.G.P. for R-1

Mr.C.Prakasam for R-2



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ORDER

The petitioner has filed the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records comprised in Refusal Number: RFL/1 Joint Sub-Registrar Erode/112/2023, dated 05.12.2023 passed by the first respondent, quash the same and consequently direct the first respondent to forthwith register the sale deed presented by the petitioner, dated 05.12.2023.

2. Learned counsel for the petitioner submitted that the property in question belongs to the wife of the petitioner and she executed a settlement deed in favour of the petitioner and later on, she executed a sale deed in favour of a third party, but the first respondent, without registering the document, issued the impugned refusal check slip under Section 22 of the Registration Act and the first respondent cannot insist the petitioner and further the minimum parent document like settlement deed in this case, for the proposed sale deed has also been produced before the first respondent, but the first respondent failed to consider the same. Even Rule 55-A(i) of the Registration Rules states that only the parent title deed / parent document for the document under registration is only to be produced and in this case, the original settlement deed

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is produced and therefore, the official respondent has no authority to refuse to register the sale deed. Therefore, the impugned refusal check slip is liable to be quashed. The first respondent may be directed to register the sale deed which was presented by the petitioner for registration.

3. Learned Additional Government Pleader appearing for the first respondent submitted that the petitioner though produced only the settlement deed, which is the minimum parent document, however, at the time of registering the settlement deed, since it is the partition deed, they did not insist for original, but however, now objection having been received from the second respondent, the second respondent also produced the original partition deed, and therefore, when the original partition deed is with the petitioner, the petitioner is not entitled for the relief sought for, and therefore the first respondent issued the impugned refusal check slip.

4. Learned Addl.G.P. appearing for the first respondent further submitted that the property in question belongs to the wife of the petitioner and he entered into an oral agreement and he also filed the suit for specific performance and the suit is pending, and therefore, all the parent documents are with the second respondent, and the wife suppressed the fact that in order



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to get away with the liability from the first respondent, she connived and created the document of settlement deed between the husband and wife, and subsequently, in order to escape from the decree from the competent Court and that now the petitioner is creating encumbrance over the property, and therefore, when he came to know about the fraudulent transaction, the second respondent made objection before the first respondent, who rightly refused to register the document in question. Hence, the petitioner is not entitled to the relief sought for.

5. This Court also heard the submissions of the learned counsel for the second respondent on the above aspects of the matter.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the petitioner presented the document/sale deed before the first respondent for registration, who issued the impugned refusal check slip. The wife of the petitioner obtained the property by way of partition deed and however, admittedly, the said original partition deed is with the second respondent, according to whom, the wife of the petitioner entered into an oral agreement and the suit for specific performance is also pending in that regard.

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Therefore, since the civil suit is pending between the parties regarding the sale agreement entered into between the parties, neither the Registrar nor the Writ Court can decide the position of the original document that is with the second respondent. It requires factual clarification as well as oral and documentary evidence.

8. In the above facts and circumstances, this Court does not find any perversity in the impugned refusal check slip and the reasons given thereon are sustained and since the partition deed is with the second respondent, the petitioner has to work out his remedy in the manner known to law before the Civil Court for getting the original partition deed through his wife.

9. With the above observations, the Writ Petition is dismissed. There shall be no order as to costs.

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To

The Joint Registrar-II, Erode District.

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