



W.P.(MD)No.9308 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.06.2024

DELIVERED ON : 08.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.9308 of 2021

and

W.M.P.(MD)No.7029 of 2021

Govindaraj

... Petitioner

Vs.

1.The Sub Registrar,  
Paramakudi,  
Ramanathapuram District.

... Respondent

2.R.Murugasantham  
(R.2 is impleaded vide Court order  
dated 02.04.2024 in W.M.P.(MD)No.  
7730 of 2021 )

... Respondent

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records from the respondent's check slip, dated 30.03.2021 and to quash the same with consequential direction directing the respondent to register the petitioner's sale deed dated 30.03.2021 within the stipulated time.



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For Petitioner : Mr.G.Prabhu Rajadurai  
for Mr.K.Muthumalai

For Respondents : Mr.B.Saravanan  
Additional Government Pleader  
for R.1

: Mr.D.Senthil  
for R.2

### **ORDER**

The Writ Petition is directed against the check slip dated 30.03.2021 issued by the first respondent and for direction to the first respondent to register the petitioner's sale deed dated 30.03.2021 within the time stipulated by this Court.

2. Originally, the petitioner has filed the above petition against the sole respondent – Sub Registrar, Paramakudi, Ramanathapuram District. Pending petition, the second respondent claiming ownership over the property covered by the sale deed dated 30.03.2021, has filed a petition to implead him in W.M.P.(MD)No.7730 of 2021 and that the petition came to be allowed on 02.04.2024.



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3. The case of the petitioner is that he purchased vacant housing plot Nos.6, 10 and 11 in T.S.No.5/1, Ward B, Block 3, Paramakudi, Sivagangai Registration District and Ramanathapuram District to an extent of 3,600/- sqfts from one Ramachandran, son of Nagarajan and Thadiyappan, son of Karuppaiah for valuable consideration and on that day onwards, those lands have been in his possession and enjoyment, that the petitioner's vendor Ramachandran has purchased plot No.6 from one Meenatchi on 07.03.2013 and whereas another vendor Thadiyappan has purchased the plot Nos.10 and 11 from one Palanivel on 12.06.2013, that the said Meenatchi has purchased the lands including Plot No.6 from one Nandhagopalan, Sivagami, Angulakshmi @ Lakshmi and Soundaravalli on 20.08.2012, that the said Palanivel has executed document as power of attorney agent of one Alaudeen, that the entire land in S.No.127/1 of Emaneswaram Villae was owned by one Govinda Mudhaliyar and Alla Pitchai and a joint patta was assigned in their names by the competent authority, that the said Govinda Mudhaliyar is having one son Nandhagopalan and three daughter namely Sivagami, Angulakshmi @Lakshmi and Soundaravalli, that the said Alla Pitchai is



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having only one son namely Aladeen, that Survey No.127/1 is reclassified as T.S.No.5/1, Paramakudi Municipality, that the petitioner has approached the first respondent for registering the sale deed dated 30.03.2021, but the first respondent has refused and issued the impugned check slip citing the circular sent by the Head of the Registration department, that the petitioner is the bonafide purchaser, that the petitioner's purchase is valid in the eye of law and that the respondent without considering the above aspects in proper perspective has refused to register the document and issued the check slip and that therefore, the petitioner was constrained to file the present petition challenging the check slip.

4. The case of the second respondent as evident from the affidavit filed in his impleadment petition is that one Muthu, Kottaisamy and Kottai Raja have executed a registered power deed dated 07.10.2004 in favour of one Kalidas for the properties in S.No.127/1 to the extent of 2.20 Acres in Emaneswaram Village, Paramakudi Taluk and they have stated that the property is ancestral property and the same was confirmed in the judgment made in O.S.No.128 of 2003, that on 22.04.2009, the



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second respondent and one Duraisingam have jointly purchased the property from the power agent, that the property in S.No.127/1 to an extent of 2.20 acres in Emaneswaram Village was in the name of one Govindan Mudaliar and Allahpitchai, that the petitioner in order to avoid litigations purchased the property jointly with Duraisingam from the power agent of the legal heirs of Govindan Mudaliar and Allahpitchai, vide document No.2909 of 2010, that the second respondent came to know recently that the persons who were all no way connected to his property namely Meenakshi Ammal and Palanivel executed the sale deeds to various persons and in which the petitioner purchased the portion of the property and that the first respondent has rightly rejected the sale deed submitted by the petitioner for the reason that the property is belonging to the second respondent.

5. The petitioner has filed a rejoinder affidavit consequent to the impleadment of the second respondent wherein he had specifically denied and disputed the case put forth by the second respondent, that Govindha Mudaliyar referred by the second respondent is the son of Karuppiah Mudhaliyar, but whereas in the patta he was referred as



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N.Govinda Mudaliyar, the petitioner's predecessors Allah Pitchai, S/o Maraikayar Periyathambi Rowthar belonged to a reputed family having so many properties and flourishing lorry service in the name and style of Alaudeen Lorry Service, that the said Alla Pitchai had a wife Fathima and five children including the said Alaudeen who got the property through a Will dated 18.12.1973, that the second respondent along with Duraisingam have created the bogus document to claim right over the property, that the said Alaudeen and Meenakshi through their power of attorney prepared a lay out comprising 60 house sites and sold away all the plots, that the second respondent or any other person at no point of time has raised any objection, that the petitioner's vendors are now re-selling their plots purchased in 2013 and that since those sales having been registered by the first respondent, he cannot now deny the registration of such re-sale of plots.

6. It is evident from the records that the petitioner has presented a sale deed dated 30.03.2021 for registration, but the same was returned on the ground that the said property came to be registered in four documents, vide check slip dated 30.03.2021. It is pertinent to note that



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the petitioner as well as the second respondent are claiming ownership over the property situated in 127/1 of Emaneswaram Village. Since the petitioner as well as the second respondent are claiming ownership over the same property, the Registering Authority, as rightly contended by the learned Counsel for the petitioner, is not having any power or authority to decide the factum of ownership and it is only for the competent civil Court to decide the title to the property in dispute. The first respondent, by referring to the circulars of Inspector General of Registration, dated 25.04.2012 and 07.06.2018 and by referring to four documents in respect of the same property, has refused to register the sale deed.

7. The learned Counsel for the petitioner would submit that the Registering Authority is not empowered to insist upon the parties to prove the title or to verify the title over the property, that the consideration would be only within the scope of Rules 55 and 162 of the Tamil Nadu Registration Rules, that the power of the Registrar to refuse registration is to very limited grounds such as document is forged and etc., that the reason of refusal as evident in the check slip is none of the circumstances either under Rule 55 or under Rule 162 of the Registration



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Rules and that therefore, there is no provision under the Registration Act or Rules to decide the title by the Sub Registrar and that Rule 162 of the Registration Rules lists out the reasons to refuse the registration and the Registering Officer can refuse to register a document only in circumstances mentioned in Sections 19 to 22, 32 to 35.

8. At this juncture, it is necessary to refer the judgment of the Hon'ble Division Bench in ***Ramayee Vs. Sub-Registrar*** reported in ***(2020)6 CTC 697***, wherein the Division Bench has observed that the purpose of registration is only to give a public notice and it is for the buyer or subsequent transferee to make reasonable enquiry and it is for them to verify the title of the property by making reasonable enquiry and at any event. Subsequent transfer will always be subject to the rights already created. It is necessary to refer the following passages in the ***Ramayee's case*** above referred:

*“29. In the light of the above when we deal with the various provisions of the **Transfer of Property Act** the question arises as to whether the transfer is restricted to one time in respect of the immovable property, unless the previous*



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*transfer or any agreement is set aside in the court of law, and other transfer is permissible? The answer is absolutely "No" for the following reasons:*

*The property of any kind may be transferred, except as otherwise provided by the transfer of property Act or by any other law for the time being, as provided in [Section 6](#) of the Transfer of property Act.*

*35. The above section determines the priority when there are successive transfers, where the person creates transfer at different times right in or over the same immovable property, such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation bind the earlier transferee and be subject to the rights previously created.*

*36. Reading of the above section makes it clear that there is no bar for successive transfers. However, the rights in later transfer shall always be subject to the rights already created in the earlier transfer."*

9. The learned Counsel for the petitioner would rely on a decision of this Court in a case of ***the Federal Bank Ltd., Coimbatore Vs. the Sub-Registrar, Pollachi and others*** in W.P.No.2758 of 2023, dated 08.02.2023. A learned Judge of this Court, by observing that as the first proviso to Rule 55-A has been found to be invalid and ultra vires, the



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respondent cannot refuse to register document placing reliance on the aforesaid proviso, has come to a decision that the respondent / Registrar cannot refuse to register the document, as sought for by the petitioner and the first respondent was directed to register the document within a period of fifteen days from the date of receipt of a copy of that order.

10. Considering the legal position above referred, the impugned order refusing to register the document on the ground that already four documents came to be executed in respect of the same property cannot legally be sustained and the first respondent is to be directed to register the document within a time stipulated.

11. In the result, the Writ Petition is allowed and the impugned check slip, dated 30.03.2021, issued by the first respondent is set aside. The petitioner is directed to present the document before the first respondent and upon the same, the first respondent is directed to register the document within a period of ten days from the date of presentation of the document. If the second respondent is aggrieved by the registration of the document, he is at liberty to approach the competent civil Court



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for setting aside the document and for deciding the title to the disputed property, if so advised. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

**08.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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To  
The Sub Registrar,  
Paramakudi,  
Ramanathapuram District.



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**K.MURALI SHANKAR,J.**

**SSL**

PRE-DELIVERY ORDER MADE IN

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and  
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