



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.11593 of 2024

S.Banumathi

... Petitioner

Vs.

1.The Sub Registrar, Theni.

2.The District Revenue Officer,
Theni District, Theni.

3.The Tahsildar, Theni Taluk,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Refusal Check Slip bearing Refusal No.RFL/Theni/6/2024 dated 24.04.2024, quash the same and consequently direct the first respondent to register the sale deed presented by the petitioner on 24.04.2024 bearing No.TP 179700173 in respect of the house site in Survey No.748/3A in Koduvilarpatti Village, Theni Taluk and District.



For Petitioner : Mr.A.Rahul

For Respondents : Mr.Farjana Ghoushia
Special Government Pleader

ORDER

Heard both sides.

2.The petitioner wants to sell the petition mentioned land. Sale deed was executed. It was presented for registration before the first respondent. The first respondent refused registration on the ground that communication has been received from the jurisdictional Tahsildar as well as the District Revenue Officer that since assignment conditions have been breached, there is proposal to resume the land and that till then, no registration should be permitted in respect of the said land. Challenging the refusal check slip, this writ petition has been filed.

3.The issue raised in this writ petition is squarely covered vide order dated 30.09.2022 in WP(MD)No.20334 of 2015. The said order reads as follows :



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"2.The petitioner has been assigned certain lands. As per the impugned communication of the third respondent herein, he is proposing to cancel the said order of assignment on the ground that the assignee has violated the conditions of assignment. In view of the proposal, the third respondent has requested the fifth respondent not to register any document relating to those survey numbers. The present writ petition has been filed challenging the said order.

3.A perusal of the impugned order shows that the third respondent is only proposing to cancel the order of assignment, which was already granted in favour of the writ petitioner. Unless and until the order of assignment is cancelled, the petitioner is entitled to deal with the property as per the conditions in the order of assignment. In case, any alienation takes place, the same is always subject to the cancellation of the order of assignment to be passed by the Revenue Authorities.

I am inclined to adopt the very same approach in this case. It is true that the petitioner has purchased an assigned land. But as on date, it has not been cancelled. Therefore, the petitioner cannot be prevented from dealing with the property. In any event, registering authority cannot be restrained by a revenue official from exercising his statutory function. In this view of the matter, the impugned refusal check slip is quashed. The petitioner shall represent the document. It shall be received and registered subject to the fulfilment of the other usual formalities.



4.This writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

09.07.2024

skm

To

- 1.The Sub Registrar, Theni.
- 2.The District Revenue Officer,
Theni District, Theni.
- 3.The Tahsildar, Theni Taluk,
Theni District.



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G.R.SWAMINATHAN, J.

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