



W.P.(MD)No.11832 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.11832 of 2023

K.Murugan

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Tirunelveli Zone,
Tirunelveli.

2.The District Registrar,
Tenkasi District,
Tenkasi.

3.The Sub Registrar,
Uthumalai Sub Registration Office,
Tenkasi District.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the refusal check slip on the file of the 3rd respondent vide proceeding in Refusal No. RFL/Uthumalai/11/2023 dated 12.04.2023 and to quash the same as illegal and consequently directing the 3rd respondent to register the sale deed presented by the petitioner dated 12.04.2023 in respect of the properties bearing S.No. 411/2A1A to an extent of 9.30 cents situated at Uthumalai Village, Tenkasi District on the basis of the petitioner's representation dated 13.04.2023.



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For Petitioner : Mr.A.B.Jeeva
For Respondents : Mr.C.Satheesh,
Government Advocate.

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the refusal check slip on the file of the 3rd respondent vide proceeding in Refusal No. RFL/Uthumalai/11/2023 dated 12.04.2023 and to quash the same as illegal and consequently directing the 3rd respondent to register the sale deed presented by the petitioner dated 12.04.2023 in respect of the properties bearing S.No. 411/2A1A to an extent of 9.30 cents situated at Uthumalai Village, Tenkasi District on the basis of the petitioner's representation dated 13.04.2023.

2. It is the grievance of the Writ Petitioner that when he presented the sale deed for registration, the Registering Authority has refused to register the same on the ground that the said property comes under the unapproved/not regularized house site and also directed the petitioner to get permission from concerned local body and urban development department. Challenging the same, the petitioner has filed this Writ Petition.



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3. The learned counsel appearing for the petitioner submitted that this issue has already been settled and a clarification has also been issued by the Secretary to Government, Commercial Tax and Registration Department vide letter No.359/J2/2020-1 dated 16.03.2020, stating that there is no bar for registration of land like the petitioner's land. Therefore, the impugned refusal slip issued by the 3rd respondent has to be set aside.

4. The respondents have not filed their counter affidavit.

5. Heard the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. On a perusal of the records, it is seen that the subject land will not fall within Section 22-A of the Registration Act, 1908, as clarified by the Secretary to Government, Commercial Tax and Registration Department vide letter No. 359/J2/2020-1 dated 16.03.2020. This aspect has already been elaborately dealt by this Court in ***D.Rajamanickam Vs. The Sub Registrar, Salem (West) in W.P.No.426 of 2022***, wherein this Court has held as follows :



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“17. The clarification issued above would indicate that the bar contained under Section 22-A is only with regard to unapproved lay out which was formed without the permission for development from planning authority concerned and new roads or streets have been laid after the amendment and not in respect of the Unapproved Layout prior to the amendment came into being. Such view of the matter as the layout was formed in 2020 and several plots had already been sold, registration of settlement deed executed by the petitioner for the remaining extent of land retained and held by the petitioner in favour of his son cannot be refused. As already held such land can be used for any purposes other than housing development. Even any one of the adjacent land owners may wish to purchase such land for the purpose of using it as vacant land or for any other purpose other than housing development. Therefore, transfer of such land cannot be said to be totally prohibited, if transfer of such land is totally prohibited, it would certainly violate the constitutional right guaranteed under Article 300-A of the Constitution of India. The very object of introducing Section 22-A by way of Tamil Nadu Act is only to restrict conversion of agricultural land or any other land as unapproved house sites without the permission for development of such land from planning authority concerned. Therefore, bar contained under Section 22-A cannot be applied in a mechanical fashion and registration cannot be refused and restraining the owner of such land from using the land for any other purposes other than housing development.”

In the light of the above settled provision of law, the impugned refusal slip cannot be sustained in the eye of law.



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7. Accordingly, this Writ Petition is allowed and the impugned refusal slip issued by the third respondent dated 12.04.2023 stands quashed and the third respondent is directed to register the settlement deed dated 12.04.2023, presented by the petitioner, within a period of fifteen days from the date of receipt of a copy of this order. There shall be no order as to costs.

30.08.2024

NCC : Yes/No
Index : Yes/No
vsm

To

- 1.The Deputy Inspector General of Registration,
Tirunelveli Zone,
Tirunelveli.
- 2.The District Registrar,
Tenkasi District,
Tenkasi.
- 3.The Sub Registrar,
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