



W.P(MD)No.13553 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.13553 of 2024

and

W.M.P(MD)No.11946 of 2024

Sahaya Merly Vincy

... Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Santhome High Road,
Raja Annamalaipuram,
Chennai – 600 009.

2.The District Registrar (Administration),
District Registrar Office,
Palayamkottai,
Kokkirakulam,
Tirunelveli,
Tirunelveli District.

3.The Sub Registrar,
Office of the Sub-Registrar,
Panagudi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Refusal Check Slip under RFL/Panagudi/25/2024 dated 22.03.2024 issued by the third respondent and quash the same and to direct the third respondent to register the Sale Deed under Document in Temporary No.TP/162103458/2023 dated 22.03.2024 in relation to the lands



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to an extent of 5.33 cents (0.02.16 Hectares) situate within large extent of 1 Acre 20 cents comprised in Survey No.887 (887/24A1B as per Sub Division), Levinjipuram Village, Radhapuram Taluk and Tirunelveli District within a time frame fixed by this Court.

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the refusal check slip issued by the third respondent dated 22.03.2024 thereby refused to register the sale deed in respect of the property comprised in Survey No.887 (887/24A1B as per sub-division) to an extent of 5.33 cents (0.02.16 hectares) out of 1 acre 20 cents situated at Levinjipuram Village, Radhapuram Taluk and Tirunelveli District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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3.The punja lands to an extent of about 0.11.17 hectares (27.58 cents) being the lands situated on the western 1 acre 20 cents on the southern 3 acres 56 cents leaving 3 cents on the north east, in the total extent of 7 acres 12 cents (2.88.25 hectares), comprised in Survey No.887, Levinjipuram Village, Radhapuram Taluk, Tirunelveli District belonged to one Sundaram. In turn, the said Sundaram sold the subject property in favour of one T.Ulaganathan and others by the registered sale deed dated 07.01.2021 vide Document No.87 of 2021. Subsequently, the said Ulaganathan and others had partitioned the said land as per the registered partition deed vide Document No.2006 of 2022. As per the partition, out of 27.58 cents comprised thereon, 5.33 cents (0.02.16 hectares) comprised in Survey No.887 (sub-divided as Survey No.887/24A1B) Levinjipuram Village has been allotted in favour of one Devi Chandran. The said Devi Chandran, after mutation of revenue records in his name, obtained patta No.8637. The said Devi Chandran had sold out the property in favour of one Nageswari by registered sale deed dated 19.05.2022 vide Document No.2143 of 2022. In turn, the said Nageswari had executed a sale deed in favour of the petitioner on 22.03.2024 and presented for registration before the third respondent. However, the third respondent refused to register the sale deed on the ground that the



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subject land is an unapproved plot and as per Section 22A(2) of the Registration Act, 1908 (in short hereinafter referred to as 'the Act, 1908') the sale deed cannot be registered and refused to register the same.

4. On perusal of the counter-affidavit filed by the third respondent and on the submissions made by Mr.S.P.Maharajan, learned Special Government Pleader would reveal that after registration of sale deed in favour of the petitioner's vendor dated 19.05.2022 vide Document No.2143 of 2022, as per internal audit objection, an inspection was conducted and found that the registration of sale deed in favour of the petitioner's vendor is contrary under Section 22(A)(2) of the Act, 1908. Therefore, the present sale cannot be registered and refused to register the same. It is relevant to rely upon the provision under Section 22A of the Registration Act and the proviso hereunder:

'22-A. Refusal to register certain documents.-- Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:-



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(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,--

(i) belonging to the State Government or the Local Authority or Chennai Metropolitan Development Authority established under Section 9-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

(ii) belonging to or given or endowed for the purpose of any any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958); or of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995),

unless a sanction in this regard, issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorized by the State Government for this purpose, is produced before the registering officer;



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(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as a house site.'

5.Thus, it is clear that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as a house site.

6.Admittedly, T.Ulaganathan and others were allotted with the subject property by partition deed registered vide Document No.2006 of 2022. Thereafter, the subject property was allotted to Devi Chandran through partition and he had executed a registered sale deed in favour of the petitioner's vendor dated 19.05.2022 vide Document No.2143 of 2022. Subsequently, the petitioner's vendor had executed a sale deed in favour of the petitioner on 22.03.2024 and presented for registration. Therefore, the above said proviso is clearly applicable to the case on hand.



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That apart, there is no forming of any street or road to access the subject property.

7.In view of the above, the third respondent ought not to have refused to register the sale deed presented by the petitioner for registration. Accordingly, the impugned order dated 22.03.2024 passed by the third respondent cannot be sustained and the same is liable to be quashed.

8.Accordingly, the impugned order dated 22.03.2024 passed by the third respondent is quashed and the Writ Petition is allowed. The petitioner is directed to represent the sale deed before the third respondent for registration and on receipt of the same, the third respondent is directed to register and release the same forthwith. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

13.11.2024

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

- 1.The Inspector General of Registration,
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Santhome High Road,
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G.K.ILANTHIRAIYAN, J.

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Order made in
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