



W.P.(MD)No.17550 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17550 of 2019

S.Vellaisamy

... Petitioner

Vs.

1.The District Registrar,
Tenkasi, Tirunelveli District.

2.The Sub Registrar,
Puliyangudi, Tirunelveli 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 quash the order of the 1st respondent dated 26.07.2019 in Na.Ka.No.3376/M1/2019 and to direct the 1st respondent to enquire the executants and direct to register the document - Sale deed - presented by the petitioner on 19.12.2018 in T.P./52441156/2018 in the office of the 2nd respondent .

For Petitioner : Mr.S.Mani

For Respondents : Mr.M.Siddarthan,
Addl. Govt. Pleader



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the order of the 1st respondent dated 26.07.2019 in Na.Ka.No. 3376/M1/2019 and to direct the 1st respondent to enquire the executants and direct to register the document - Sale deed - presented by the petitioner on 19.12.2018 in T.P./52441156/2018 in the office of the 2nd respondent .

2. It is the case of the Writ Petitioner that the petitioner received a loan from one SK.Muthupandi, for which he has executed a power deed in favour of one E.Muthupandi, who is the brother in law of the said Muthupandi. Based on the said power deed, the said Muthupandi executed two sale deeds in his name and also in the name of one Arumugasami. Since the loan transactions was settled, it is agreed that the petitioner will pay a sum of Rs.21,00,000/- to the said Muthupandi, who in turn reconvey the properties to the petitioner. Hence, the petitioner prepared a sale deed dated 19.12.2018 and the petitioner has paid the entire amount. However, when the petitioner presented the sale deed for registration, the vendor did not appear for registration. The first respondent, without following the procedure contemplated under Sections 35 and 36 of the Indian Registration Act, 1908, has issued the refusal check slip dated 20.06.2019,



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on the ground that the previous original document has not been produced for verification. Hence, the petitioner made an appeal on 25.07.2019 before the first respondent. However, the first respondent, through the impugned order, dismissed the appeal by confirming the order passed by the 2nd respondent. Challenging the same, the petitioner has filed this Writ Petition.

3. The respondents have not filed counter affidavit.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. Considering the facts and circumstances of the case, this Court is of the view that the sale deed could not be registered because the vendor did not cooperate and sign the document. Therefore, the impugned order passed by the first respondent stands quashed and the first respondent shall conduct an enquiry by following the procedure as contemplated under Sections 74 of the Indian Registration Act, 1908, by issuing summons and enforce the attendance of the witnesses and thereafter, pass an order as per Sections 74 and 75 of the Indian



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Registration Act, 1908, within a period of three months from the date of receipt of a copy of this order.

6. With the above observation, this Writ Petition is allowed. There shall be no order as to costs.

19.08.2024

NCC : Yes/No
Index : Yes/No

vsm



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- To
- 1.The District Registrar,
Tenkasi, Tirunelveli District.
 - 2.The Sub Registrar,
Puliyangudi, Tirunelveli District.



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N.SATHISH KUMAR, J.

vsm

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