



W.P.(MD)No.1238 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.1238 of 2018
and WMP(MD) Nos.1322 to 1324 of 2018

S.Muruganantham

... Petitioner

Vs

1. The Inspector of General Of Registration,
No.100. Santhome High Road,
Chennai - 600 028..

2. The Joint II Sub Registrar,
O/o. the Sub Registrar, Taluk Office Campus,
S N High Road, Tirunelveli - 627 002.

... 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 of the 2nd respondent issued u/s 22(A) of the Registration Act, 1908 dated 13.11.2017 and quash the same as it is not applicable to the present case and direct the Respondents to register the document of Release Deed submitted by the petitioner dated 13.09.2017.

For Petitioner

: Mr. Ananth C.Rajesh

For Respondents

: Mr.C.Satheesh
Government Advocate



W.P.(MD)No.1238 of 2018

ORDER

This Writ Petition has been filed challenging the impugned order of the 2nd respondent issued u/s 22(A) of the Registration Act, 1908, dated 13.11.2017 and to direct the Respondents to register the document namely Release Deed submitted by the petitioner, dated 13.09.2017.

2.Heard Mr.Ananth C.Rajesh, the learned counsel appearing for the petitioner and Mr.C.Satheesh, learned Government Advocate appearing for the respondents. Perused the materials available on record.

3.The petitioner has presented the release deed for registration, which was executed by his brothers and sisters in favour of him by releasing their right in the property purchased by their father in the year bearing Doc.Nos.1332/87 and 283/92. After purchase, in the said properties houses have been built up and the properties have also been converted as house sites. Therefore, either the co-owners when executed the document for release of their right in favour of the petitioner, the said document has been not registered on the ground there is a bar under Section 22(A) of Registration Act. Challenging the said order, this writ petition has been filed.



W.P.(MD)No.1238 of 2018

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4.The respondents has not filed any counter. The only contention raised by the respondents is that as per Circular No. 29945/C1/2105, dated 21.06.2017, if the extent is more than 20 cents, it can be registered, whereas, the alleged document is only for 15 cents. Therefore, the same cannot be registered.

5.The alleged property has been purchased in the year 1987 and the same was converted as house sites and houses have been built up. Such being so, the bar under Section 22(A) of Registration Act cannot be mechanically applied. The purpose of introduction of Section 22(A) of Registration Act is to prevent the conversion of agricultural lands into house sites. That amendment will operate prospectively and not retrospectively. Moreover, the property has already been enjoyed and house sites have been formed long back. Therefore, the bar under Section 22(A) of Registration Act cannot be applied mechanically. The said circular cannot take away the constitutional right of the parties.

6.The bar under section 22(A) of Registration Act will apply only when agricultural land has been converted as house sites and sold. This aspect has been elaborately dealt with by this Court in ***D.Rajamanickam Vs. The Sub***



W.P.(MD)No.1238 of 2018

Registrar, Salem (West) in W.P.No.426 of 2022, wherein, this Court has held as follows:

“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



W.P.(MD)No.1238 of 2018

other than housing development.”

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

8. Accordingly, this Writ Petition is allowed and the impugned order, dated 13.11.2017 is hereby set aside and the respondents are directed to register the document namely Release Deed, dated 13.09.2017 presented by the petitioner for registration within a period of one week from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petitions are closed.

08.08.2024

NCC : Yes/No
Index : Yes/No
PNM

To
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