



W.P.(MD) Nos.19381 and 19382 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) Nos.19381 and 19382 2024

Bertrand Russell

...Petitioner in both petitions

-vs-

The Sub-Registrar,
Registration Department,
Ottapidaram Sub Registrar Office,
Ottapidaram,
Thoothukudi District.

...Respondent in both petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the respondent and to quash the refusal check slip in RFL/Ottapidaram/47 & 48/2024 dated 02.07.2024 of the respondent with a consequential relief of directing the respondent to register the sale agreement dated 02.07.2024 presented by the petitioner.

In both petitions:

For Petitioner	: Mr.M.Mohammed Sherbudeen
For Respondent	: Mr.C.Satheesh
	Government Advocate



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COMMON ORDER

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These writ petitions have been filed to direct the respondent to register the sale deed presented by the petitioner dated 02.07.2024.

2.The properties in question belonged to the petitioner. He executed a sale deed in respect of the above said properties in favour of some third parties. When the said sale deed were presented for registration, the same were refused to be registered on the ground that with regard the subject properties a suit in O.S.No.150 of 2022 is pending on the file of the Principal District Munsif Court, Ottapidaram. Hence, this writ petition is filed challenging the said refusal check slips issued by the respondent.

3.The issue of refusal made casually by citing the pendency of the suit, is elaborately dealt by the Division Bench of this Court in ***N.Ramayee Vs. Sub Registrar [(2020) 8 MLJ 305]***, wherein, in paragraph 28, it is held as follows:

28. It is also pertinent to note that even if transfer is made during a pending suit, such transfer is not void but is subject to the result of the suit. Section 53 of the Transfer of



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Property Act, deals with fraudulent transfer. Even such fraudulent transfer is made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed. Even in such cases the rights of transferee in good faith and for consideration is protected.”

4. Therefore, mere citing the pendency of the suit also the document cannot be refused to be registered.

5. In view of the above, these writ petitions are allowed and the respondent is directed to receive and register the sale deeds dated 02.07.2024 within a period of 15 days from the date of receipt of a copy of this Order. No costs.

13.08.2024

Index : Yes / No

Internet : Yes / No

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Note: The Registry is directed to return the original impugned orders after retaining a copy of the same for record.

To

1. The Sub-Registrar,
Registration Department,
Ottapidaram Sub Registrar Office,

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Ottapidaram, Thoothukudi District.
2.The Section Officer,
English Records Section (Writ),
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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