



W.P.(MD)No.7334 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.7334 of 2018

A.Murugaiyan

... Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
K.Sathanoor,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the impugned order issued by the respondent in his proceedings vide no.157/2018 dated 16/03/2018 and quash the same and consequently direct the respondent to release the document No.P.23/2017 dated 12.12.2017 in favour of the petitioner within the time.

For Petitioner : Mr.S.Ramakrishnan
For Respondent : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal slip issued by the respondent dated 16.03.2018.

<https://www.mhc.tn.gov.in/judis>



2.The petitioner purchased the property in Survey Nos.339/3, 340 and 342 on 04.09.2017 for valid consideration. When the document was presented before the respondent for registering the same, the respondent had kept the same as pending document in P.No.23/2017. When the same was requested to be returned, the respondent passed the impugned order stating that the petitioner has to produce the regularized lay out copy.

3.The learned counsel for the petitioner contended that the property was already made as house sites in the year 1993 itself by the vendor of the petitioner. Therefore, the question of requiring the petitioner to submit the layout copy once again does not arise at all.

4.The learned Additional Government Pleader for the respondent submitted that the respondent had instructed the petitioner to produce the layout copy and it does not affect the petitioner in anyway. Having received the communication, the petitioner submitted a representation to the respondent stating that he will produce the layout copy after obtaining the same. Instead of producing the same, he has filed this writ petition.

5.I have heard the submissions made on either side and perused the materials available on record.



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6. Section 22(A) (2) Registration Act provides that the house site without such permission may be registered if it is shown that the same house site has been previously registered as house site. As contended by the petitioner, the property has already been made as house sites by the vendor of the petitioner even in the year 1993 and roads have also been formed in the said property. When the law itself does not prohibit such transaction in respect of house sites, which have already been registered as house sites, the authorities cannot insist the petitioner to produce the layout plan once again. It is between the petitioner and the local Panchayat to deal with the license for the building in question.

7. This aspect has 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 :

“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,



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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.

8. Accordingly, this writ petition is allowed and the impugned order passed by the respondent in proceedings No.157/2018 dated 16.03.2018 is quashed. The respondent is directed to release the document of the petitioner



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dated 12.12.2017 pending in document No.P.23/2017 to the petitioner within a period of seven days from the date of receipt of a copy of this order. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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To

The Sub Registrar,
Sub Registrar Office,
K.Sathanoor,
Trichy District.



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N.SATHISH KUMAR, J.

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