



W.P.(MD)No.19578 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.19578 of 2024

S.Manikandan

... Petitioner

Vs

1. The Sub Registrar,
Bodinayakkanur Sub Registrar Office,
Theni District.

2. Vijayakumar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned refusal check slip passed by the 1st respondent in Refusal Number. RFL / Bodinayakkanur / 32/2024 dated 19.07.2024 and quash the same as illegal and consequently direct the respondent to register the Sale deed dated 19.07.2024 within the period that may be stipulated by this Court.

For Petitioner : Mr. M.Jerin Mathew

For Respondents : Mr.P.Subbaraj (R1)
Special Government Pleader



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ORDER

This Writ Petition has been filed challenging the refusal slip passed by the 1st respondent in Refusal Number. RFL / Bodinayakkanur / 32/2024, dated 19.07.2024 and to direct the respondent to register the Sale deed dated 19.07.2024.

2.Heard Mr.M.Jerin Mathew, learned counsel appearing for the petitioner and Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. It is the case of the writ petitioner that the sale deed presented by the petitioner for registration before the 1st respondent was refused to register and issued the impugned refusal check-slip on the ground that original parent document has not been produced and due to objection raised by the 2nd respondent.



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5. This issue in hand is no-more res-integra. This Court has already elaborately dealt in the case of ***Federal Bank v Sub Registrar***, reported in **2023 (2) CTC 289** and held that Sub Rule XX of Rule 162 has no statutory backing. The said order has been followed by a Division Bench of this Court in the case of ***M. Ariyanatchi v Inspector General*** made in ***W.A.(MD).No. 856 of 2023, dated 27.06.2023***, wherein, Division Bench of this Court has held that, the Sub-Registrar cannot refuse to register a document merely because the original document has not been produced.

6. So far as the issue with regard to the protest petition and the registering authorities enter into the title dispute is no longer res-integra. The issues were elaborately dealt with by this Court in ***Subramani v. Sub Registrar and another [(2024) 3 MLJ 588]*** and held that filing/pendency of a civil suit is not a bar for registration of document. Any transaction during the pendency of civil suit is always subject to the right to be determined by the Civil Court. In such view of the matter, the refusal cannot be sustained.



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7. Considering the above settled position of law, the Registrar cannot refuse to register the document merely on the ground of non production of original document and objection raised by the private respondent/2nd respondent.

8. In such view of the matter, this writ petition stands allowed and the the impugned order in RFL / Bodinayakkanur / 32/2024, dated 19.07.2024 is set aside. The first respondent is directed to register the document presented by the petitioner, within a period of one week from the date of receipt of a copy of this order. There shall be no order as to costs.

16.08.2024

NCC : Yes/No
Index : Yes/No
PNM

To
1. The Sub Registrar,
Bodinayakkanur Sub Registrar Office,
Theni District.



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N.SATHISH KUMAR, J.

PNM

ORDER IN

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