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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20688 of 2024

1. N.Mohammed Ali Hussain

2. A.Kaja Maideen

3. S.Ismath Inoon

... Petitioners

Vs

The Joint Sub-Registrar No.2,
Cheranmahadevi,
Tirunelveli.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to calling for the records pertaining to the impugned order of the respondent in Na.Ka.No. 218-1/2023, dated 30.11.2023 quash the same and consequently direct the respondent to complete the process of registration by issuing the registration Certificate as contemplated under Section 60 of the Registration Act 1908 by assigning the document number for the pending Doc.No.3/2018.

For Petitioners : Mr. K.K.Udayakumar

For respondent : Mr.M.Siddharthan
Additional Government Pleader

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O R D E R

This Writ Petition has been filed challenging the impugned order of the respondent in Na.Ka.No. 218-1/2023, dated 30.11.2023 and to direct the respondent to complete the process of registration by issuing the registration Certificate as contemplated under Section 60 of the Registration Act, 1908 by assigning the document number for the pending Doc.No.3/2018.

2.Heard Mr.K.K.Udayakumar, learned counsel appearing for the petitioners and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondent. Perused the materials available on record.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself. Mere refusal slip has been issued violating the order of this Court and hence, counter is not required in this writ petition.

4. It is the case of the petitioner that in the earlier occasion, the petitioners have presented the sale deed, dated 10.05.2018 for registration and the

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same was refused to be registered, since the original document is not produced. In this regard, the petitioners have filed a writ petition in W.P(MD) No. 11024 of 2021. Vide order, dated 10.05.018 and this Court has allowed the writ petition by setting aside the impugned order therein and directed the 2nd respondent therein to register the document. Since the order has not been complied with, the petitioners have filed a contempt petition in Cont.P(MD) No.1456 of 2022 before this Court and in the counter, it was agreed that the 2nd respondent therein will register the document. Thereafter, once again, contempt petition has been filed by the petitioners in Cont.P(MD) No.1842 of 2023, since the respondent failed to register, on the ground that the scanned copy had already been lapsed. This Court again directed the 2nd respondent therein to register the same. Now, the impugned order came to be passed citing that there is not proper title in favour of the petitioners.

5.It is relevant to note that in various decisions, this Court has held that the registering authorities cannot go into the title issue. The primary enquiry and summary enquiry under Section 34 of the Registration Act, 1908 is a limited one with regard to the identity of the person. The registering authorities cannot conduct a roving enquiry as a Civil Court to find out the title.

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6.In such view of the matter, the impugned order in Na.Ka.No. 218-1/2023, dated 30.11.2023 is hereby set aside. The respondent is directed to register the document within a period of one week, from the date of receipt of copy of this order. It is made clear that in similar issues, if any of the registering authorities refusing to register the document, this Court straight away proceed against them, for contempt of Court. There shall be no order as to costs.

02.09.2024

NCC : Yes/No
Index : Yes/No
PNM
To
The Joint Sub-Registrar No.2,
Cheranmahadevi,
Tirunelveli.

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N.SATHISH KUMAR, J.

PNM

ORDER IN

W.P.(MD)No.20688 of 2024

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