



W.P.(MD)No.20689 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20689 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. 218-2/2023 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.4/2018.

For Petitioners : Mr. K.K.Udayakumar

For respondent : Mr.M.Siddharthan

Additional Government Pleader



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ORDER

This Writ Petition has been filed challenging the impugned order of the respondent in Na.Ka.No. 218-2/2023, 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.4/2018.

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. 11028 of 2021. Vide order, dated 10.05.2018 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.1843 of 2023 before this Court and in the counter, it was agreed that the 2nd respondent therein will register the document. Now, the impugned order came to be passed citing that there is no 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 a person. The registering authorities cannot conduct a roving enquiry as a Civil Court to find out the title.

6.In such view of the matter, the impugned order in Na.Ka.No. 218-2/2023, 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



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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

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