



WP(MD). No.22014 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 20/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.22014 of 2022

Nimal Mugan

... Petitioner

Vs

1. The Sub Registrar,
Thevaram Sub Registrar Office,
Thevaram, Uthammapalayam Taluk
Theni District

2. S.Duraipandian @ Sivasubramaniya Seenivasa Bodaya
Chennayasami Nayakkar

... Respondents

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned refusal check slip issued by the 1st respondent vide refusal number: RFL/Thevaram/7/2022 dated 23.08.2022 and set aside the same as illegal and consequently direct the 1st respondent to register the sale deed presented by the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.J.Karthikeyan
For Respondents : Mr.VP.Rajan for R2
Mr.P.Subbaraj for R1
Special Government Pleader



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ORDER

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The impugned order has been challenged on the ground that the 1st respondent has refused to register the memorandum of deposit of title deeds when presented by the petitioner citing the District Registrar's orders.

2. According to the learned counsel for the petitioner, as far as the title is concerned, the petitioner's right has been decided as early as in the year 1963 in a suit filed in OS No.22/1963 by the civil Court. However now the 2nd respondent claiming to be the step son of Bangaru Ammal claiming right, when the legal heirs already lost their right in OS No. 22/1963 and it is also stated that OS No.46/2015 has been filed by the 2nd respondent suppressing the earlier suit and the judgment and decree in OS No.22/1963. However, the said suit was also rejected by the Court below by order dated 22.03.2021. Challenging the same, appeal has been filed by the 2nd respondent in AS No.16/2021 on the file of the Sub Court, Theni. However, no stay has been granted. Hence, the impugned order of refusal is challenged.



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3. When a suit filed by the 2nd respondent claiming right itself is dismissed and the appeal has been pending and no stay has been granted, this Court is of the view that the refusal order cannot be sustained in the eye of law. A perusal of the suit in OS No.22/1963 shows that decree has already been granted in favour of the petitioner's predecessor in title. In such view of the matter, mere registering the memorandum will not take away the right of the respondent to canvass their appeal. In the event they succeed, the memorandum will always subject to the rights of the parties declared in the civil Court. Therefore, the impugned order is liable to be quashed.

4. Accordingly, the writ petition is allowed and the impugned order of the 1st respondent is quashed and the 1st respondent is directed to register the document. No costs.

20.08.2024

RR

TO

1. The Sub Registrar,
Thevaram Sub Registrar Office,
Thevaram, Uthammapalayam Taluk, Theni District

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N.SATHISH KUMAR,J

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**ORDER
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