



W.P(MD)No.19758 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.19758 of 2023

Thirupathi

... Petitioner

Vs.

The Sub Registrar,
Watrap Register Office,
Virudhunagar.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in RFL/Watrap/5/2023, Virudhunagar District dated 05.04.2023 and quash the same and consequently, to direct the respondent to register the document presented by the petitioner for registration without insisting for production of the original parent document within the time fixed by this Court.

For Petitioner : Mr.R.Sivakumar

For Respondent : Mr.P.Subbaraj,

Special Government Pleader

ORDER

Challenge has been made to the refusal check slip issued by the respondent dated 05.04.2023.



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2. According to the petitioner, he is in possession and enjoyment of the property in Survey No.406/4A by way of gift deed executed in his favour and he decided to execute a gift deed in favour of his daughter. When he presented the gift deed for registration, the same was refused by the respondent on the ground that partition suit with regard to the property in question is pending before the Principal Sub Court, Srivilliputhur. Therefore, challenging the same, the petitioner has filed this Writ Petition.

3. Mere pendency of the suit will not be a bar for registering the document. Registration is always subject to the result of the suit. Mere registration will not give any absolute right to the parties concerned and the right of the parties will be only based on the rights declared in the civil suit. The issue raised in this Writ Petition is no longer *res-integra*, in view of the judgment rendered by this Court in the case of ***Subramani vs. the Sub Registrar and others*** [WP.No.11056 of 2024, dated 26.04.2024], in which it has been held as follows:

“...j. The other ground on which refusal is also made casually is citing the pendency of the suit. The said issue is also elaborately dealt by the Division Bench of this Court in N.Ramayee's case, wherein, in paragraph 28, it is held as follows:



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28. *It is also pertinent to note that even if transfer is made during a pending suit, such transfer is not void but is subject to the result of the suit. Section 53 of the Transfer of Property Act, deals with fraudulent transfer. Even such fraudulent transfer is made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed. Even in such cases the rights of transferee in good faith and for consideration is protected."*

Therefore, mere citing the pendency of the suit also the document cannot be registered. "

4. In such view of the matter, the refusal made by the respondent, citing the pendency of the suit, cannot be sustained in the eye of law. Therefore, the same is liable to be quashed, accordingly, it is quashed. This Writ Petition is allowed with a direction to the respondent 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. No costs.

30.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

The Sub Registrar,
Watrap Register Office,
Virudhunagar.



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N.SATHISH KUMAR, J

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