



W.P(MD)No.22736 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.22736 of 2024

Muthukrishnan

... Petitioner

Vs

1.The District Registrar (Admin),
District Registrar Office,
Cheranmahadevi,
Tirunelveli District.

2.The Sub Registrar,
Ambasamudram Sub-Registrar Office,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned Refusal Check Slip in Refusal Number RFL/Ambasamudram/41/2024 dated 11.09.2024 was issued by the second respondent and quash the same as illegal and consequently direct the second respondent to register the petitioner's sale deed dated 11.09.2024 in respect of the scheduled property in Ayan Punjai Sy.No.583/3A1G to the extent of 870 sq.Mt situated at Pon Nagar, 11th Block, 3rd Ward, Mannarkovil Village, Ambasamudram Sub-Registration Circle, Cheranmahadevi Registration District within a stipulated period as framed by this Court.



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For Petitioner : Mr.A.Sankararamasubramanian

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the second respondent dated 11.09.2024 thereby refusing to register the sale deed dated 11.09.2024 and issued refusal check slip in respect of the property comprised in Ayan Punjai Sy.No.583/3A1G to an extent of 870 sq.mt situated at Pon Nagar, 11th Block, 3rd Ward, Mannarkovil Village, Ambasamudram Sub-Registration Circle, Cheranmahadevi Registration District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The property comprised in Sy.No.583/3 to an extent of 9833.8 sq.mts out of 2.43 acres situated at Pon Nagar, 11th Block, 3rd Ward, Mannarkovil Village, Ambasamudram Sub-Registration Circle, Cheranmahadevi Registration District was purchased by one



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K.S.S.Karthick by the registered sale deed dated 24.02.2011 vide Document No.296 of 2011. Thereafter, he had settled the said property by the registered settlement deed dated 01.04.2011 vide Document No.513 of 2011 in favour of his brother K.S.S.Mohan. He was issued patta No.3143 and subsequently sub-divided as Survey No.583/3A1G. In turn, he had executed power of attorney dated 05.09.2024 registered vide Document No.1707 of 2024 in favour of S.Muthusamy in respect of the property comprised in Ayan Punjai Survey No.583/3A1G to an extent of 870 square meters situated at Pon Nagar, Mannarkovil Village, Cheranmahadevi, Tirunelveli District. In turn, the power holder executed the sale deed on 11.09.2024 in favour of the petitioner and presented for registration. The second respondent refused to register the sale deed on the ground that the subject property is an unapproved plot.

4.The learned counsel appearing for the petitioner would submit that the second respondent refused to register the sale deed as per Section 22-A(2) of the Registration Act, 1908 (in short hereinafter referred to as 'the Act, 1908'). Accordingly, the petitioner never introduced any new boundaries in the schedule of the property or formed any new street or road. The south north Pon



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Nagar road exists on the western side of the subject property. That apart, already other sub-divisions were duly registered by the registering authority by taking into consideration of the parent document. G.O.Ms.78, Housing and Urban Development Department, dated 04.05.2017 is not applicable to the case on hand, since already the documents were entertained as plots and got registered. Further, there is no new plots or sub-divisions of plots in the present sale deed which was presented for registration. Therefore, sub-Section 22-A(2) of the Act, 1908 is not applicable to the case on hand. It is applicable only to new plots and conversion of house plots.

5.On perusal of the counter-affidavit and on the submission made by Mr.S.P.Maharajan, learned Special Government Pleader would reveal that the Government issued orders in G.O.Ms. 78, Housing and Urban Development Department, dated 04.05.2017 in which Rule 2(8) of the Tamil Nadu Regularization of Unapproved Layouts and Plots Rules, 2017 (in short hereinafter referred to as 'the Rules, 2017') defines 'Layout' *inter alia* as the division of land into plots by introducing a new road or streets in areas other than Chennai Metropolitan Planning Area. The



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Government also issued a letter dated 16.03.2020 and the proceedings of the Inspector General of Registration dated 18.03.2020 thereby clarifying that if no road or street is introduced, then registration of such document would not be as against the provisions of Section 22-A(2) of the Act, 1908. The original extent of the property comprised in Survey No.583/3 was 9833.87 square meters ie., 2 acres and 43 cents. Subsequently, the portion of land admeasuring 1116 square meters, 1350 square meters and 1700 square meters respectively have been sold by three sale deeds in the year 2022. In the year 2023 also, another three sale deeds admeasuring 850 square meters, 856 square meters and 850 square meters respectively for the land were executed. Now, the land admeasuring 870 square meters has been sold in favour of the petitioner and presented the sale deed for registration by introducing a new road at Western boundary. It is relevant to extract the provision under Section 22-A(2) of the Registration Act, 1908 hereunder:

'22-A. Refusal to register certain documents.--

.....

(2) instrument relating to the transfer of ownership of lands converted as house sites without



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the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as a house site.'

6.As per the sale deed of the year 2011 purchased by one K.S.S.Karthick dated 24.02.2011 registered vide Document No. 296 of 2011, the subject land is classified as ayan punjai. After settling the said property in favour of one K.S.S.Mohan, he had executed several sale deeds after sub-dividing the entire extent of the property to various extents such as 1116 square meters, 1350 square meters, 1700 square meters, 850 square meters, 856 square meters and 850 square meters and executed six sale deeds in favour of third parties.

7.It is crystal clear that without obtaining layout approval for the subject land, the entire property has been subdivided into below 10 cents in order to overcome the Government Order passed in G.O.Ms.78, Housing and Urban Development Department, dated 04.05.2017 and also in order to



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overcome provision under Section 22-A(2) of the Act, 1908, the petitioner's vendor split the entire land into various plots and sold out. Unfortunately, the registering authority without application of mind and without adhering to the Government Order and the provision under Section 22-A(2) of the Act, 1908, mechanically registered those sale deeds. In the said G.O.Ms.78, Housing and Urban Development Department, dated 04.05.2017, notified the Rules under Section 113 r/w 122 of the Tamil Nadu Town and Country Planning Act, 1971. Rule 2(8) of the Rules, 2017 defines 'Layout' which reads as follows:

"Layout" means, -

(i) division of land into plots exceeding 8 (eight) in numbers in Chennai Metropolitan Planning Area;

(ii) division of land into plots by introducing a new road or street in areas other than Chennai Metropolitan Planning Area."

8. Therefore, the division of land into plots by introducing a new road or street requires regularization of such unauthorized layouts and plots. Rule 3 of the Rules, 2017, says about the cut-off date for considering the regularization of unapproved plots and



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layouts. The plots which were sold out as on 20.10.2016 shall be eligible for regularization. The settler of the subject property subdivided into various plots and sold out in the year 2022-2023. Therefore, the subject property can be regularized under the Rules, if it does not come under the restrictions for regularization of unapproved plots and layouts under Rule 4 of the Rules, 2017. The unapproved plots or layouts shall not be registered under the Act, 1908 and no building approval shall be given by the authority concerned for unapproved plots or layouts.

9. Admittedly, the subject property is an unapproved one and so far it has not been subjected for regularization. That apart, in the subject land on its western side, they formed a new road. Therefore, it cannot be registered as per the provision under Section 22-A(2) of the Act, 1908. Therefore, the petitioner ought to have subjected the subject property for regularization under the Rules, 2017. Without regularizing the subject property, it cannot be registered and the second respondent has rightly refused to register the sale deed which was presented for registration by the petitioner by issuance of refusal check slip, dated 11.09.2024. In view of the above, this Court finds no infirmity or illegality in the order passed



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by the second respondent by issuance of refusal check slip, dated
11.09.2024.

10.Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

20.11.2024

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

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- 2.The Sub Registrar,
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G.K.ILANTHIRAIYAN, J.

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Order made in
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