



W.P(MD)No.22061 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22061 of 2023

and

W.M.P.(MD)Nos.18381 and 18383 of 2023

S.Senthilkumar

... Petitioner

Vs.

1.The Sub-Registrar,
Thiruverumbur Sub – Registrar,
Thiruverumbur, Trichy District.

2.M.Natarajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in Refusal No.RFL/Thiruvarambur/146/2023 dated 19.08.2023 issued by the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to register the petitioner's sale deed dated 19.08.2023 in Temporary Registration No.TP/157889708/2023 and release the same after completion of registration, within time frame as stipulated by this Court.



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For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader for R1.
Mr.R.Sundar Srinivasan for R2.

ORDER

Heard both sides.

2.The writ petitioner wants to sell the petition mentioned plot in favour of one Nagaraj. Sale deed dated 19.08.2023 was executed and presented for registration before the first respondent. Citing the written objection received from the second respondent, the registering authority issued the impugned refusal check slip and returned the same. Challenging the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



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4.The learned Special Government Pleader on instructions submitted that the impugned refusal check slip is well reasoned and that it does not call for interference.

5.The contesting respondent has filed a detailed counter affidavit and the learned counsel took me through its contents. The stand of the second respondent is that the petition mentioned plot was part of a larger extent of land and it belonged to Manian Navalangiyar who is none other than the late father of the second respondent. It is beyond dispute that Manian Navalangiyar passed away on 08.03.1997. The petitioner's title rests on the sale deed dated 09.02.2007. It was executed by one Tamilarasi. Tamilarasi executed the sale deed based on the power of attorney executed by Manian Navalangiyar on 06.10.1994. The argument of the learned counsel for the second respondent is that when the principal had passed away, the power of attorney would automatically lapse and therefore, the sale deed executed by the power agent after the demise of the principal is nonest in the eye of law. The learned counsel relied on the decision of the Hon'ble Supreme Court reported in **2022 (8) SCC 210 (Asset Reconstruction Company (India) Limited Vs. S.P.Velayutham)**. The learned counsel for the second respondent would call



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upon this Court to bear in mind the settled principle of law that fraud would vitiate everything and that a document vitiated by fraud cannot confer any right.

He called upon this Court to sustain the impugned refusal check slip and dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record. The basic facts put forth by the learned counsel for the second respondent are beyond dispute. The property originally belonged to Manian Navalangiyar. He had executed power of attorney on 06.10.1994 in favour of one Tamilarasi. The said Tamilarasi appears to have promoted a layout in the name and style of Valampuri Nagar. Approval was also granted by the local body on 24.09.2002. The layout promoter had sold the plots on the strength of the power of attorney. Plot No.108 measuring 3300 sq. ft., was sold in favour of the petitioner herein vide registered sale deed dated 09.02.2007 (Document No.779/2007) on the file of the first respondent. The power of attorney was in respect of a larger extent of land more than 15 acres.

7.The assumption of the second respondent is that once the principal dies, the power of attorney would also lapse as a direct consequence. This proposition may not hold good always. There are certain facts to be taken into



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account. There is nothing on record to show that the petitioner was a party to any deliberate act of fraud. The total extent of land was over 15 acres. More than 100 plots had been plotted out. The petitioner had purchased one such plot (Plot No.108 measuring 3300 sq. ft.) from the layout promoter. The layout promoter executed sale deed on the strength of a power of attorney. The transaction in favour of the petitioner took place 17 years ago (2007). The second respondent had raised objection for the first time only in the year 2015. In these circumstances, it is not possible for this Court to give a definitive declaration that the petitioner does not have any title. The registering authority also cannot go into such issues. If the second respondent has any right, it for him to establish the same before the jurisdictional Civil Court. The sale deed has not been impeached by the second respondent before any such Court. There is no declaration in favour the second respondent till date. Therefore, he cannot ride piggy-back on the first respondent. The first respondent cannot adjudicate such contested questions of fact and law. The impugned refusal check slip is set aside. The petitioner is permitted to re-present to the document. The first respondent shall receive it and registered it subject to fulfilment of other formalities.



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G.R.SWAMINATHAN, J.

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8.This writ petition is allowed on these terms. No costs. Consequently, connected, miscellaneous petitions are closed.

21.02.2024

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

The Sub-Registrar,
Thiruverumbur Sub – Registrar,
Thiruverumbur, Trichy District.

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