



W.P.(MD) No.20605 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.20605 of 2016
and
W.M.P.(MD) No.14736 of 2016

P.Azhagu Raja

... Petitioner

/vs./

1.The Joint Sub Registrar – I,
Thituppathur Road,
Sivagangai.

2.Thenpandian
(R2 has been impleaded vide
order dated 11.01.2023)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in check Slip No.1/2016 dated 14.10.2016, quash the same and consequently direct the respondent herein to register the sale dated 13.10.2016 in favour of petitioner in respect of property comprised in S.No. 375/8 admeasuring 1.21.5 Hecs. comprised in Old Patta No.124, New Patta No.



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2513 in Idayamelur Village, Sivagangai Taluk, Sivagangai District, return the registered instruments within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.S.Srinivasa Raghavan

For R1 : Mr.S.P.Maharajan
Special Government Pleader

For R2 : Mr.D.Ramesh Kumar

ORDER

The challenge in this writ petition is to the check slip dated 14.10.2016, under which the first respondent herein had refused to register the sale deed presented by the petitioner on the ground that the title deeds relating to the property, which is sought to be registered, are to be verified before registering the document and that based on the encumbrance certificate, the vendor under the document had not proved his title to the property.

2. Heard Mr.S.Srinivasa Raghavan, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for the first respondent and Mr.D.Ramesh Kumar, learned counsel for the second respondent.



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3. The issue on this aspect is no longer *res integra*. A Division Bench of this Court in the judgment reported in **2024 (4) CTC 405 (M.Ariyanatchi and another Vs. Inspector General of Registration and other)** and the judgment reported in **2024 (5) CTC 575 (P.Pappu Vs. Sub Registrar)** had held that the refusal to register for non production of original document would definitely infringe the rights guaranteed under Article 300-A of the Constitution of India.

4. In the said judgments, the Division Bench had also doubted the validity of Rule 55-A of the Tamil Nadu Registration Rules, 1949, as the same was being beyond the provisions contained in the substantive law. Further, a Division Bench of this Court in the judgment reported in **2020 (6) CTC 697 (N.Ramayee Vs. Sub Registrar, Registration Department and another)** had held that the Registering Officer cannot go into the title of the property, in respect of which the document is presented. The enquiry by the Registering Officer is only limited to the extent to enquire about the executant and the claimant of the instruments of sale only and that the provision does not give the Registering Authority an absolute power to refuse the registration.



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5. For better appreciation, relevant paragraph is extracted herein below:

“47. We are of the view that except as provided in the [Registration Act](#) and any other statute, the Registrar has no power to refuse to register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void. Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor; etc., and the notification is available with the Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

48. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold



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that as discussed in our judgement, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P.No.674 of 2020 before the learned single judge for disposal.”

6. In the present case, under the impugned order the Registering Authority had refused registration indicating that the encumbrance certificate does not show clear title to the executant of the document, which by applying the principles laid down in the aforesaid judgments cannot be held to be a valid ground for refusal. In such event, I am inclined to set aside the order impugned herein and the same is accordingly set aside.

7. In fine, the Writ Petition stands allowed. The petitioner is directed to present the document for registration and as and when the document is presented for registration, the Registering Authority shall not insist upon the petitioner to produce the document to prove the title and shall if it is otherwise in order register the same.



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No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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To

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K.KUMARESH BABU, J.

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