



W.P(MD)No.23032 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.03.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.23032 of 2021

R.Pandi

... Petitioner

Vs.

The Sub Registrar,
Kariapatti Sub Registrar Office,
Kariapatti,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari filed Mandamus, to call for the entire records relating to the impugned rejection order passed by the respondent in RFL/Kariapatti/8/2019, dated 17.10.2019 and quash the same and directing the respondent to permit the petitioner to register the mortgage deed by representing the returned document in temporary registration No.TP/74256888/2019, dated 17.08.2019.

For Petitioner : Mr.K.K.Kannan

For Respondent : Mr.S.R.A.Ramachandran,
Additional Government Pleader



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ORDER

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This Writ Petition is directed against the refusal check slips issued by the respondent, dated 17.10.2019 and for direction to register the mortgage deed, dated 17.08.2019 .

2. The case of the petitioner is that he has purchased the land in S.No.35/14, Maanthoppu Village, Kariapatti, to an extent of 77 cents vide registered sale deed, dated 10.08.2009; that the petitioner has also purchased the adjacent land in S.No.35/13 to an extent of 2 Acres 15 ½ cents; that common patta was issued in the name of previous owner and subsequently, the same was transferred in the petitioner's name; that the petitioner decided to mortgage the property for availing loan; that one Murugesan has prepared to advance the loan amount of Rs.6 lakhs under mortgage loan; that when the mortgage deed was presented for registration on 17.10.2019, the first respondent has refused to register the same on the ground that the properties are under “PACL attachment” and that therefore, the petitioner was constrained to approach this Court.



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3. The learned counsel for the petitioner would submit that the petitioner is the owner of the property and is in possession and enjoyment of the same and that patta was also transferred to his name and that the respondent without assigning any valid reason has refused to registration.

4. The learned Additional Government Pleader appearing for the respondent would submit that the Hon'ble Supreme Court has constituted a committee headed by the Former Chief Justice of India and the committee has directed the Registration Department not to entertain any documents pertaining to the properties relating to the said company and on that basis, the first respondent has rightly refused to register the document. He has also relied on the decision of this Court in W.P.(MD)No.14021 of 2020, dated 26.04.2021, in a similar matter, wherein this Court by giving liberty to the petitioner therein to get no objection certificate from the committee, dismissed the writ petition and the relevant passages are extracted hereunder :

“4. It is brought to the notice of this Court that the third respondent Company had collected deposits from various Investors and failed to repay back the same. The matter



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ultimately reached the Hon'ble Supreme Court and the Hon'ble Supreme Court by an order dated 02.02.2016, while hearing a batch of connected cases, appointed a Committee headed by the Former Chief Justice of India, who is the Chairman of the Committee and the Committee was directed to sell the properties belonging to the Company and to utilise the sale proceeds to repay back to the Investors.

5. While the above order was passed by the Hon'ble Supreme Court, an indication was given at paragraph no.13 of the order to the effect that the decision with regard to the sale of the property of the Company by the Committee shall not be interfered with by any Court. The very purpose of appointing a Committee was to ensure that the properties belonging to the Company are identified and they are brought for sale in order to enable the repayment of the investors.

6. In view of the above, the Committee has issued letters to the Registration Department by giving the particulars of all the properties belonging to the third respondent Company and has directed the Registration Department not to entertain any documents pertaining to these properties. On receipt of the letter, the Inspector General of Registration has also issued a Circular to the Sub Registrars not to entertain any documents for registration, which pertains to the properties identified and belonging to the third respondent Company.



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7. *The very purpose of issuing such a Circular is to ensure that third party rights are not created which will further complicate the process of selling the property of the third respondent and it will virtually put spokes on the functioning of the Committee. Therefore, there is a meaning behind the letter circulated by the Committee to the Registration Department not to entertain the documents pertaining to the identified properties belonging to the third respondent.*

8. *In view of the above discussion, this Court does not find any ground to interfere with the impugned refusal check slips issued by the second respondent. The direction given by the Committee cannot be construed to mean that the statutory functioning of the second respondent is being interfered with. It is important to bear in mind that the Hon'ble Supreme Court was dealing with a larger public interest, where the money collected from various depositors was not repaid back and therefore, a Committee was appointed to take steps to identify the properties and sell them and repay back the Investors. By issuing these directions, the Hon'ble Supreme Court is virtually acting through the Committee and therefore, the Committee was entitled to issue directions to the Registration Department not to entertain documents for registration pertaining to the properties belonging to the third respondent Company.*



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9. If the petitioner wants to deal with the subject properties, he has to necessarily approach the Committee and seek for a 'No Objection Certificate'. Unless such a 'No Objection Certificate' is given by the Committee, the second respondent cannot entertain the documents presented for registration. Except giving this liberty, this Court does not find any ground to interfere with the impugned refusal check slips issued by the second respondent."

5. In view of the above, the impugned order cannot be found fault with. In case, if the petitioner wants to proceed with registration of mortgage deed, he is at liberty to approach the said Committee and get a 'No Objection Certificate', as the respondent, without NOC, cannot entertain any documents for registration.

6. With the above liberty granted to the petitioner, the Writ Petition is disposed of. No costs.

19.03.2024

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



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To

The Sub Registrar,
Kariapatti Sub Registrar Office,
Kariapatti,
Virudhunagar District.



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K.MURALI SHANKAR, J

das

Order made in
W.P(MD)No.23032 of 2021

Dated : 19.03.2024