



WEB COPY



W.P(MD)No.25304 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.25304 of 2024

and

W.M.P.(MD)No.21489 of 2024

M.Subbiah

... Petitioner

Vs.

The Sub Registrar,
Srivaikundam Taluk,
Srivaikundam, Thoothukudi District.

... 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 relating to the impugned refusal check slip of the respondent made in Refusal Number:RFL/Srivaikundam/18/2024, dated 27.03.2024 and quash the same as illegal and consequently, to direct the respondent to register the settlement deed dated 07.03.2024 in accordance with law.

For Petitioner : Mr.D.Selvanayagam

For Respondent : Mr.P.Subbaraj,

Special Government Pleader

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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2.It is the grievance of the petitioner that when he presented the settlement deed dated 07.03.2024, which is executed by him in favour of his younger son, namely, Arumugam in respect of the property in S.Nos.282/1 and 341/1 to an extent of 54 cents and 79 cents respectively situated at Velloor Athichanallur Village, Srivaikundam Taluk, Thoothukudi District, for registration, the respondent, vide refusal check slip dated 27.03.2024, has refused the same, stating that in respect of the property in question, a suit in O.S.No.48 of 2018 is pending on the file of the learned District Munsif, Tuticorin. Challenging the same, the petitioner has filed this Writ Petition.

3.At the outset, this Court is of the view that 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



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dealt by the Division Bench of this Court in N.Ramayee's case, wherein, in paragraph 28, it is held as follows:

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. Consequently, connected miscellaneous petition is closed.

24.10.2024

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

Yuva



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N.SATHISH KUMAR, J

Yuva

To
The Sub Registrar,
Srivaikundam Taluk,
Srivaikundam,
Thoothukudi District.

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