



W.P(MD)No.24480 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24480 of 2023

1.Karthick

2.Esakki Kumar

... Petitioners

Vs.

The Sub Registrar,
Veeravanallur,
Tirunelveli.

... 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 order of the respondent in Refusal Check Slip no. RFL/North Veeravanallur /81/2023 dated 20.09.2023 and quash the same and consequently direct the respondent to register and release the document in favour of first petitioner within a time frame fixed by this Court.



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For Petitioners : Mr.H.Arumugam

For Respondent : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

Heard both sides.

2. The first petitioner has purchased the petition mentioned land from the second petitioner. Sale deed dated 15.09.2023 executed by the second petitioner to the first petitioner was presented for registration. It was not entertained. The registering authority issued the impugned refusal check slip by citing Section 22-A(2) of the Registration Act, 1908. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that the schedule setout in the sale deed is a mere reiteration of the earlier sale deed standing in the name of the vendor and that therefore the respondent was not justified in declining to register the document. He pressed for setting aside the refusal check slip and granting relief as prayed for.

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4. The learned Government Advocate appearing for the respondent submitted that the impugned refusal check slip contains correct reasons and that therefore the matter does not call for interference. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The sale deed presented by the petitioners describe the properties sold as lying to the south of east-west road. The second petitioner / Essaki Kumar had purchased property from one Petchiammal vide sale deed dated 11.06.2021. The said document also describes the property as lying to the south of East-west road. Petchiammal had purchased a larger extent (50 cents) from one Dhanalakshmi. The said document does not contain any four boundaries description. Dhanalakshmi had purchased 1 acre 47 cents from one MM.J.Fernando vide sale deed dated 01.11.2017. The said document also does not contain any four boundary description. MM.J.Fernando was assigned



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1 acre and 47 cents vide assignment order dated 31.05.1998. It is true that the sale deed in favour of Essaki Kumar / second petitioner was registered.

7. In my view, even that document ought not to have been allowed to be registered. Merely because the registering authority had over looked at a given point of time that cannot by itself validate the subsequent transactions. Section 22-A(2) of the Registration Act, 1908 reads as follows:

“22-A Refusal to register certain documents.

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

In this case, the learned counsel appearing for the petitioners categorically states that what has been purchased is only a piece of



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agricultural land measuring 21 cents and that house site has not been purchased and that therefore invocation of Section 22-A(2) of the Registration Act, 1908 is not appropriate. The said contention of the learned counsel appearing for the petitioners is attractive on the face of it. But then, the fact remains that the original land owners have attempted to subdivide the land and promote the same but without getting permission from the concerned authorities. The land assigned in favour of MM.J.Fernando measured 1.47 cents. MM.J.Fernando sold in favour of Dhanalakshmi the entire extent of assigned land. But Dhanalakshmi parted with only 50 cents of land in favour of Pechiammal. Pechiammal in turn sold 21 cents of land in favour of Essaki Kumar. An east west road is said to be lying to the north of the said property. It means that the extent of 50 cents of land purchased by Dhanalakshmi had been parcelled into two and a road is apparently running between them. It clearly amounts to promotion and development of a piece of land. Such a promotion cannot be done without getting permission from the authority concerned. If such activities are permitted, obviously, that would run counter to public policy. The Government issued G.O(Ms)No.78 Housing and Urban Development Department dated 04.05.2017.



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Registration of documents pertaining to unapproved plots stood forbidden thereafter. This cannot be allowed to be circumvented.

8. I therefore sustain the impugned refusal check slip. It is however open to the second petitioner herein to sell 21 cents of land purchased by him as a piece of agricultural land without altering its character in favour of the first petitioner. In that event, 'road' cannot be the northern boundary. If the second petitioner herein executes a proper sale deed in favour of the first petitioner which conforms to the GO and Section 22-A of the Registration Act, 1908 then the respondent would be obliged to entertain the same and also register and release it subject to the fulfilment of the other usual formalities.

9. With this liberty to the petitioner's herein and direction to the respondents, this writ petition is disposed of. There shall be no order as to costs.

26.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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