



WEB COPY

W.P.(MD) No.26625 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.26625 of 2024

and

W.M.P.(MD) No.22589 of 2024

Muniyasamy

... Petitioner

-vs-

1.The Inspector General of Registration
Office of the Inspector General of Registration
Chennai

2.The District Registrar
Office of the District Registrar
Thenkasi District

3.The Sub Registrar
Sub Registrar Office
Sankarankovil
Sankarankovil Taluk
Thenkasi District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the third respondent in refusal check slip



W.P.(MD) No.26625 of 2024

WEB COPY

Number RFL/Sankarankovil/103/2024 dated 28.10.2024, quash the same and further direct the third respondent herein forthwith register the settlement deed presented by the petitioner of the property in Natham Survey No.205/1, 205/3, which is situated at Ivaraja Nagar, new Ward No.1, Old Ward No.30, Sankarankovil Municipal Kaspas, Sankarankovil Taluk, Thenkasi District, within a time stipulated by this Court.

For Petitioner : Mr.P.Ponraj

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

ORDER

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents.

2. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. This writ petition has been filed challenging the refusal slip, dated 28.10.2024, issued by the third respondent, and to direct the third respondent to register the settlement deed presented for registration forthwith.



WEB COPY

W.P.(MD) No.26625 of 2024

4. The petitioner had purchased a house site in Natham Survey Nos.205/1 and 205/3, in Old Ward No.30, New Ward No.1, Sankarankovil Municipal Kaspas, Sankarankovil Taluk, Tenkasi District, from one Velusamy, under a sale deed dated 26.11.2019 and registered as document No.2933 of 2019. Thereafter, he decided to settle the said property in favour of his brother Muniyandi and accordingly, he executed a settlement deed dated 28.10.2024 and presented the same before the third respondent for registration. However, the third respondent refused to register the same and issued the impugned check slip, on the ground that the settlement deed has been executed in violation of Section 22-A of the Registration Act, 1908 and therefore, also the third respondent directed the petitioner to get approval from the Local Town and Country Planning Department.

5. Learned Special Government Pleader appearing for the respondents would submit that admittedly the subject property is an unapproved house site and therefore, Section 22-A of the Registration Act, 1908, is a clear bar for registration of the subject property.



WEB COPY

W.P.(MD) No.26625 of 2024

6. In similar circumstances, this Court, by order dated 11.09.2024 in W.P.(MD) No.21704 of 2024 **[Nagarajan vs. The Sub Registrar]**, has quashed the check slip and directed the respondent therein to register the document presented for registration. The relevant portion of the said order is extracted hereunder:

“4.This issue was elaborately discussed in the case of D.Rajamanickam Vs. The Sub Registrar, Salem (West) in W.P.No.426 of 2022, wherein this Court has held as follows:

“17. The clarification issued above would indicate that the bar contained under Section 22-A is only with regard to unapproved lay out which was formed without the permission for development from planning authority concerned and new roads or streets have been laid after the amendment and not in respect of the Unapproved Layout prior to the amendment came into being. Such view of the mater as the layout was formed in 2020 and several plots had already been sold, registration of settlement deed executed by the petitioner for the remaining extent of land retained and held by the petitioner in favour of his son cannot be refused. As already held such land can be used for any



WEB COPY



W.P.(MD) No.26625 of 2024

purposes other than housing development. Even any one of the adjacent land owners may wish to purchase such land for the purpose of using it as vacant land or for any other purpose other than housing development. Therefore, transfer of such land cannot be said to be totally prohibited, if transfer of such land is totally prohibited, it would certainly violate the constitutional right guaranteed under Article 300-A of the Constitution of India. The very object of introducing Section 22- A by way of Tamil Nadu Act is only to restrict conversion of agricultural land or any other land as unapproved house sites without the permission for development of such land from planning authority concerned. Therefore, bar contained under Section 22-A cannot be applied in a mechanical fashion and registration cannot be refused and restraining the owner of such land from using the land for any other purposes other than housing development.”

5.In such view of the matter, the impugned refusal check slip issued by the respondent dated 28.08.2024 is quashed. The respondent is directed 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.”



WEB COPY

W.P.(MD) No.26625 of 2024

7. The very object of Section 22-A of the Registration Act, 1908 is only to restrict conversion of agricultural lands or any other lands into unapproved house sites. Therefore, it cannot be applied mechanically in all cases. Insofar as the case on hand is concerned, the subject property was earlier sold to the petitioner as a house site and hence, the said bar is not applicable to the case on hand.

8. At this juncture, it would be relevant to refer the proviso to Section 22-A of the Registration Act, 1908, which is extracted hereunder:

“22-A. Refusal to register certain documents.-

(1) ...

(2) ...

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.”

9. From the above proviso, it is clear that if an unapproved house site has been previously registered as house site, the same can be registered subsequently as house site and there is no bar for registration of those house sites.

10. In view of the above, the impugned check slip, dated



W.P.(MD) No.26625 of 2024

WEB COPY

28.10.2024, issued by the third respondent, cannot be sustained and it is liable to be quashed.

11. Accordingly, this writ petition is allowed and the impugned check slip, dated 28.10.2024, issued by the third respondent, is quashed. The petitioner is directed to re-present the settlement before the third respondent for registration within a period of one week from today and on receipt of the same, the third respondent is directed to register the settlement deed and release the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

07.11.2024

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

krk

To:

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai.

2.The District Registrar,
Office of the District Registrar,

Page 7 of 9



W.P.(MD) No.26625 of 2024

WEB COPY

Thenkasi District.

3.The Sub Registrar,
Sub Registrar Office,
Sankarankovil,
Sankarankovil Taluk,
Thenkasi District.



WEB COPY



W.P.(MD) No.26625 of 2024

G.K.ILANTHIRAIYAN, J.

krk

W.P.(MD) No.26625 of 2024
and
W.M.P.(MD) No.22589 of 2024

07.11.2024