



W.P.(MD)No.26926 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.26926 of 2024

M.Evangeline Mercy

... Petitioner

/Vs./

1. The Sub Registrar
Sub Registrar Office,
Valliyur,
Tirunelveli District.

2. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam,
Chennai - 600028.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuance of the impugned refusal check slip in refusal No.RFL/VALLIYURR/57/2024 dated 13.09.2024 by the 1st respondent in virtue of the 2nd respondent's circular No.52889/C1/2019 dated 18.03.2020 and quash the same as illegal and consequently direct the 1st respondent to register the document submitted by the petitioner in TP/194367100/2024 dated 13.09.2024 within the time stipulated by this Court.



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For Petitioner : Mr.S.Selvakumar

For Respondents : Mr.S.P..Maharajan

Special Government Pleader

ORDER

This Writ Petition has been filed for challenging the order passed by the first respondent dated 13.09.2024 in refusal No.RFL/VALLIYUR/57/2024, thereby refused to register the settlement deed, which was presented for registration by the petitioner.

2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The property comprised in Survey No.1142/1B1A to an extent of 2 Acre 5 Cents belong to the petitioner. It was originally belongs to his father and after his demise, it was inherited by the petitioner. Out of 2 Acre 5 Cents, half of the share inherited to his mother and thereafter, she was relinquished dated 23.01.2018. The petitioner had become absolute owner of the entire property. Thereafter, the petitioner had entered into an



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agreement for sale in respect of part of the subject property with third party. It was registered agreement for sale. Thereafter, the petitioner had executed a settlement deed in respect of 24 cents, out of 2 Acres 5 Cents in favour of his wife and the same was presented for registration. However, it was rejected that already there was registered agreement of sale dated 19.03.2019. Thereby, the petitioner challenged the refusal slip dated 19.06.2024, filed a Writ Petition in W.P.(MD)No.15179 of 2024. This Court by order dated 09.07.2024 allowed the Writ Petition on the ground that even if there is a registered sale agreement there is no bar from registration in subsequent transfer in respect of very same property. Once again, the petitioner represented the settlement deed for registration. However, now the first respondent refused to register the same, on the ground that there is bar under Section 22A of the Registration Act and it has to be laid down in accordance with law. This issue also already settled by this Court by referring the clarification letter issued by the Government of Tamil Nadu to the second respondent herein, dated 16.03.2020 in Letter No.359/J2/2020-1 in response to the letter of the Inspector General of Registration dated 03.01.2020. Accordingly, it is clear that layout means (i) division of land into plots



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exceeding eight in numbers in Chennai Metropolitan Planning Area; (ii) division of land into plots by introducing a new road or street in areas other than Chennai Metropolitan Area. Therefore, as long as there was no new road or street introduced, there is no bar for registration of sale under Section 22(a) of the Registration Act.

4. In the case on hand, admittedly, out of 2.05 Acres, the petitioner had executed settlement deed to an extend of 24 cents, in favour of his wife before that, $\frac{1}{2}$ of the property, out of 2.05 Acres was released in favour of the petitioner by his mother by release deed dated 23.01.2018 vide Document No.175/2018. Further, on perusal of the settlement deed executed by the petitioner in favour of his wife also revealed that there is already existing road on the East side of the subject property. On the western side, it is bounden with compound wall. Therefore, there is no new road or street formed in the subject property.

5. It is also relevant to extract the proviso of Section 22-A of the Registration Act:



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*“?22-A. Refusal to register certain documents .?
Notwithstanding anything contained in this Act, the
registering officer shall refuse to register any of the
following documents, namely:?”*

*(1) instrument relating to the transfer of
immovable properties by way of sale, gift, mortgage,
exchange or lease,?*

*(i) belonging to the State Government or the local
authority or Chennai Metropolitan Development
Authority established under section 9-A of the Tamil
Nadu Town and Country Planning Act, 1971;*

*(ii) belonging to, or given or endowed for the
purpose of, any religious institution to which the Tamil
Nadu Hindu Religious and Charitable Endowments Act,
1959 is applicable;*

*(iii) donated for Bhoodan Yagna and vested in the
Tamil Nadu State Bhoodan Yagna Board established
under section 3 of the Tamil Nadu Bhoodan Yagna Act,
1958; or*

*(iv) of Wakfs which are under the
superintendence of the Tamil Nadu Wakf Board
established under the Wakf Act, 1995, unless a sanction
in this regard issued by the competent authority as
provided under the relevant Act or in the absence of any
such authority, an authority so authorised by the State*



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Government for this purpose, is produced before the registering officer;

(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.

Explanation I.- ?For the purpose of this section ? local authority? means,?-

(i) any Municipal Corporation constituted under any law for the time being in force; or

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920 ; or

(iii) a Panchayat Union Council or a Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994 ; or

(iv) any other Municipal Corporation, that may be constituted under any law for the time being in force.

Explanation II.?For the purpose of this section ? planning authority? means the authority constituted under section 11 of, and includes the Chennai Metropolitan Development Authority established under



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section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(3) instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed.”

6. Thus, it is clear that the land converted as house site without the permission for development of such land from the Planning Authority concerned and substantial number of plots have already been registered, then, there is no bar for subsequent registration.

7. In view of the above, this Court finds infirmity of the refusal check slip issued by the first respondent and it is liable to be quashed, accordingly quashed. This Writ Petition is allowed. The petitioner is directed to re-present the settlement deed in favour of his wife. On receipt of the same, the first respondent is directed to register the same and release the same forthwith. No costs.

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

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G.K.ILANTHIRAIYAN, J.

LS

TO:-

1. The Sub Registrar
Sub Registrar Office,
Valliyur,
Tirunelveli District.
2. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam,
Chennai - 600028.

Order made in
W.P.(MD)No.26926 of 2024

Dated:
12.11.2024