



WEB COPY

W.P.(MD) No.26849 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.26849 of 2024

U.Vijayakumaravel

... Petitioner

-VS-

1.The District Registrar
Palayamkottai
Tirunelveli District

2.The Sub Registrar
Alwarthirunagari
Thoothukudi District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned refusal Check Slip issued by the second respondent in RFL/Alwarthirunagari/39/2024 dated 27.06.2024 and quash the same as illegal and consequently direct him to register the sale deed dated 26.06.2024 presented by the petitioner for registration on 27.06.2024.



WEB COPY

W.P.(MD) No.26849 of 2024

For Petitioner : Mr.V.Angusamy
For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

Mr.D.Sadiq Raja, learned Additional 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 check slip dated 27.06.2024, issued by the second respondent, refusing to register the sale deed presented by the petitioner for registration.

4. The property situated at Door No.1/163, measuring an extent of 3.16 Cents, in Ayan Punja Survey No.109/1A6 of Suganthalai Village, Alwarthirunagari Union, Palayamkottai Registration District, Thoothukudi District and other properties were originally belonged to one Selvakumar. He executed a settlement deed dated 03.05.2021 and registered as document No.



W.P.(MD) No.26849 of 2024

WEB COPY

435 of 2021, in favour of his family members, namely, Vellaidurai, Sermakani, Vengatesh and Mallika. Thereafter, they partitioned the properties and as per the partition deed, the subject property was allotted to the said Vellaidurai. Thereafter, the said Vellaidurai constructed a house thereon and sold the subject property to the petitioner by a sale deed dated 26.06.2024 for a valid sale consideration. When the petitioner presented the sale deed before the second respondent for registration, he refused to register the sale deed on the ground that the subject land is an unapproved one and therefore, Section 22-A of the Registration Act, 1908, is a clear bar for registration of the subject property and issued the impugned check slip. Challenging the same, this writ petition.

5. Learned Additional Government Pleader appearing for the respondent would submit that even according to the petitioner, the subject property is classified as Ayan Punjai land in survey No.109/1A6 and it is an unapproved plot. Therefore, there is a clear bar under Section 22-A of the Registration Act, 1908 and hence, the second respondent has rightly refused to register the sale deed presented by the petitioner for registration in respect of the subject property.



WEB COPY

W.P.(MD) No.26849 of 2024

6. Admittedly, the subject property is measuring to an extent of 3.16 Cents and there is a house constructed by the petitioner's vendor, who was allotted the subject property in a partition effected between his family members.

7. 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



WEB COPY



W.P.(MD) No.26849 of 2024

Unapproved Layout prior to the amendment came into being. Such view of the matter 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 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



WEB COPY



W.P.(MD) No.26849 of 2024

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.”

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. As per the above proviso, a land can be registered even the same is an unapproved one. Further, the Government of Tamil Nadu has issued a clarification under letter Ref Letter No.359/J2/2020-1, dated 16.03.2020, to the letter of the Inspector General of Registration letter dated



W.P.(MD) No.26849 of 2024

WEB COPY

03.01.2020 in reference Letter No.52889/C1/2019, whereby it is made clear that 'layout' means (i) division of land into plots exceeding 8 (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 sub-section (2) of Section 22-A of the Registration Act, 1908. Further, the said clarification also makes it clear that the bar contained in Section 22-A of the Registration Act, 1908 is only with regard to unapproved layout, which was formed without the permission for development from the 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 into effect.

10. In the case on hand, the subject land is measuring to an extent of only 3.16 Cents. It was partitioned along with other properties among the family members of the petitioner's vendor and the subject property was allotted in favour of the petitioner's vendor and he constructed a house thereon and executed a sale deed in favour of the petitioner in respect of the subject property. Further, there is a road on the southern side of the subject



W.P.(MD) No.26849 of 2024

WEB COPY

property. Therefore, the bar under Section 22-A of the Registration Act, 1908 is not applicable to the case on hand. Therefore, the impugned check slip, dated 27.06.2024, issued by the second respondent, cannot be sustained and it is liable to be quashed.

11. Accordingly, this writ petition is allowed and the impugned check slip, dated 27.06.2024, issued by the second respondent, is quashed. The petitioner is directed to re-present the sale deed before the second respondent for registration within a period of one week from today and on receipt of the same, the second respondent is directed to register the sale deed and release the same forthwith, if it is otherwise in order. No costs.

12.11.2024

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

krk



W.P.(MD) No.26849 of 2024

WEB COPY

To:

- 1.The District Registrar,
Palayamkottai,
Tirunelveli District.
- 2.The Sub Registrar,
Alwarthirunagari,
Thoothukudi District.



WEB COPY



W.P.(MD) No.26849 of 2024

G.K.ILANTHIRAIYAN, J.

krk

W.P.(MD) No.26849 of 2024

12.11.2024